

# CORPORATION OF THE COUNTY OF DUFFERIN

## BY-LAW NUMBER 2017-33

### A BY-LAW TO ESTABLISH POLICIES FOR THE PROCUREMENT OF GOODS AND SERVICES AND TO REPEAL BY-LAW 2012-26.

**WHEREAS** Section 271 (1) of the Municipal Act, 2001, requires a municipality to adopt policies with respect to the procurement of goods and services;

**WHEREAS** the Council of the Corporation of the County of Dufferin, recognizing its responsibility for the effective utilization of all of its resources is desirous of codifying sound policies for the purpose of procuring goods and services in a manner congruent with its mandate to provide effective responsible government and efficient delivery of services to the residents of the County of Dufferin;

**NOW THEREFORE** the Council of the Corporation of the County of Dufferin enacts as follows:

#### **PROCUREMENT MISSION**

The Corporation of the County of Dufferin will maintain an open, competitive, transparent, fair and accountable process with respect to the procurement of goods and services and actively investigate new sources and methods of procurement for products and services to provide the most effective and efficient services while considering total cost of ownership.

#### **DEFINITIONS AND INTERPRETATION**

##### **SECTION 1**

Words and phrases used in the Procurement Policy for the County of Dufferin have the following meanings, unless expressly stated otherwise:

**“Acquisition Method”** means the process by which Goods or Services are procured.

**“Approval Authority”** means the authority to approve and award procurements, as well as any assignment or corporate change requests related to such procurements, up to the procurement values for the respective body or person(s) set out in Policy # 2 - Approval Authority.

**“Approved Products Listing”** means the listing of approved Goods for use as maintained by the County’s Standards and Approved Products Committee.

**“Authorized Delegate”** means the person to whom an Approval Authority has been delegated by Council and includes any other person further sub-delegated such Approval Authority in accordance with the Procurement Policy. An Authorized Delegate includes a person authorized to act on their behalf temporarily.

**“Bid”** means an offer or submission from a vendor in response to a Request for Quotations, Request for Tenders, Request for Proposals, Request for Rostered Candidates or Request for Prequalification issued by the County.

**“Centralized Procurement”** refers to the activities conducted by the Treasury Department, which facilitates the purchase of all Goods and/or Services in accordance with the requirements of the Procurement Policy.

**“Chief Administrative Officer”** means the Chief Administrative Officer for the County of Dufferin or his/her designate.

**“Clerk”** means the Clerk of the Corporation County of Dufferin or his/her designate.

**“Consulting and Professional Services”** means services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training or direct assistance.

**“Contract”** means any formal or deliberate written agreement for the purchase of goods, services, equipment or construction.

**“Cooperative Procurement”** means coordination of County purchases with purchases of other government bodies, public authorities, conservation authorities, municipalities, academia, schools and hospitals and not-for-profit organizations.

**“Council”** means the Council of the County of Dufferin.

**“County”** means the Corporation of the County of Dufferin.

**“County Contracts”** means all of the Contracts for goods or services to which the County is currently a party.

**“Department”** means the County department initiating the acquisition of the Goods and/or Services.

**“Department Head”** means a Senior Manager of the Corporation of the County of Dufferin in charge of a Department or his/her designate.

**“Department Signing List”** means the list of people in a Department who have been designated by the Chief Administrative Officer or Department Head as authorized to approve financial transactions on accounts attributed to the Department.

**“Emergency”** has the meaning given to that term in Policy #10.

**“Energy Commodities”** means electricity, Green Power, natural gas, methane and all other petroleum based fuel products such as: diesel, bio-diesel, unleaded, fuel oil, propane and any other bulk commodity primarily used by the County for the purpose of heating and cooling of buildings and other structures, electricity generation, cogeneration and the fuelling of County fleets,

**“Goods”** includes supplies, equipment, materials, products, furniture, structures and fixtures to be delivered, installed or constructed.

**“Joint Venture”** means an association of two or more persons who combine their expertise and resources in a single joint business enterprise to qualify, bid, and perform the Contract. Joint Ventures, sometimes referred to as a consortium, may take the form of a partnership or special purpose vehicle.

**“Legislation”** means all applicable laws, regulations, by-laws, policies and trade treaties/agreements.

**“Low Dollar Value Procurements”** means the process of procuring Goods and/or Services with an estimated annual procurement cost of up to but not including \$10,000.

**“Lowest Compliant Bid”** means the Bid with the lowest price meeting all requirements of a RFQ, RFP or RFT, subject to any rights or privileges reserved by the County contained in the respective procurement document, or unless otherwise approved by Council.

**“Mixed Revenue Contracts”** means a combination of various types of Revenue Generating Contracts.

**“Procurement Policy”** means the procurement policies approved by Council, as amended from time to time.

**“Procurement Procedures and Guidelines”** means the procurement procedures and guidelines approved by the Treasurer, as amended from time to time.

**“Profit Sharing Contracts”** means contracts whereby the County receives a portion of revenues, sales or profits earned by a third party under contract with the County.

**“Purchase Order”** means a written offer to procure Goods and/or Services or a written acceptance of an offer.

**“Request for Information”** or **“RFI”** means a process where information is requested from vendors regarding their interest in, or the feasibility and availability of, specific Goods and/or Services in the marketplace and to determine if there are enough vendors to justify a Request for Proposals or Request for Tenders.

**“Request for Prequalification”** or **“RFPQ”** means a process in accordance with Policy #4, where information is requested from vendors to determine whether the vendor has the capability in all respects to perform the contract requirements. Where required, the Request for Prequalification process is initiated before a RFP or RFT is issued and only prequalified vendors are eligible to submit a Bid on such procurements.

**“Request for Proposals”** or **“RFP”** means a formal request for prices and details on Goods and/or Services from vendors in accordance with Policy #5.4, where the Goods and/or Services may not be able to be fully defined or specified or when alternate methods are being sought to perform a certain function or service, at the time of the request.

**“Request for Quotations”** or **“RFQ”** means an informal request for prices on Goods and/or Services in accordance with Policy #5.2, where comprehensive technical Specifications can be developed. Requests for Quotations may be processed by the Department.

**“Request for Roster Candidates”** or **“RFRC”** means a procurement document issued by the County requesting pricing and details with respect to category specific consulting services from vendors, with the intent of creating an approved list of vendors known as rostered candidates, and whereby work assignments under a specific cost limit will be offered by the County to said rostered candidates on an as-needed basis over a two-year period.

**“Request for Tenders”** or **“RFT”** means a formal request for prices in accordance with Policy #5.3, for Goods and/or Services from vendors, where the Goods and/or Services can be fully defined or specified at the time of the request.

**“Revenue Generating Contracts”** means a legal agreement between the County and a third party that yields a financial return for the County. Revenue Generating Contracts include, but are not limited to:

- (a) Service Revenue Contracts; and
- (b) Profit Sharing Contracts; and
- (c) Mixed Revenue Contracts.

**“Services”** means all professional, consulting, construction or maintenance services, as well as any other services procured by the County.

**“Service Revenue Contracts”** means the sale of Goods and/or Services by the County to a third party.

**“Specifications”** means the detailed description of, and written requirements and standards for, Goods and/or Services contained in a RFQ, RFP or RFT to the extent known or available to the Department, and includes any drawings, designs and models.

**“Standards and Approved Products Committee”** means the committee of the County that is responsible for maintaining the Approved Products Listing.

**“Standardization”** is a management decision-making process that examines a specific common need or requirement and then selects a Good and/or Service that best fills that need to become the standard.

**“Time-Sensitive”** means a situation for which the timing to complete the procurement is paramount, but the time available to follow normal procedures is insufficient.

**“Treasurer”** means the Treasurer for the County of Dufferin or his/her designate.

**“Treasury Department”** means the Treasurer for the County of Dufferin or his/her designate.

**“Vendor of Record”** means a procurement arrangement, typically established through an RFP, that authorizes one or more qualified vendors to provide goods/services to the County for a defined period on terms and conditions, including pricing, as set out in the VOR agreement.

**“Warden”** means the Warden of the Corporation of the County of Dufferin.

## **PROCUREMENT GOALS, OBJECTIVES AND PRINCIPLES**

### **SECTION 2**

To direct their activities toward the corporate mission, the goals and objectives of all departments in the purchasing of goods and services are as follows:

- (a) Establish clear objective specifications for all purchases.
- (b) Identify potential sources for purchases.
- (c) Clearly define and recommend non-competitive procurement when required in accordance with the policies.
- (d) Select successful bidders and suppliers in accordance with this policy.
- (e) Make recommendations to Council with respect to the award of tenders and requests for proposals as required by the policies and procedures.
- (f) Designate persons authorized to approve expenditures and their expenditure limits within their departments.
- (g) Review purchases upon delivery to ensure compliance with specifications.
- (h) Ensure all staff comply with the approved purchasing policies and procedures of the County and are accountable to do so.
- (i) Protect the interests of the County, its lower tier municipalities, the public and persons participating in the procurement process by providing a clear statement of how goods and services will be acquired.

(2) The Procurement principles of the County of Dufferin shall be as follows:

- (a) To procure by purchase, rental or lease the required quality and quantity of goods and services, including professional and consulting services in an efficient and cost effective manner;
- (b) To encourage open competitive bidding on all acquisition and disposal of goods and services where practicable;
- (c) To consider all costs, including acquisition, operating and disposal costs, in evaluating bid submissions from qualified, responsive and responsible vendors, rather than basing a decision solely on the lowest bid price;
- (d) To give full consideration to the annual aggregate value or to consider the total project cost of specific goods and services that will be required by each Department and by the County as a whole prior to determining the appropriate acquisition method;
- (e) To monitor and report on the economic climate and legislative changes which may have an impact on the County of Dufferin and to determine the appropriate actions to be taken through procurement policies and procedures;
- (f) To procure necessary goods and services with due regard to the preservation of the natural environment, to encourage vendors to supply goods made by a method resulting in the least damage to the environment and to encourage vendors to supply goods incorporating recycled materials where practicable;
- (g) To ensure awareness that all information distributed and collected with respect to the procurement process is subject to the Municipal Freedom of Information and Protection of Privacy Act, 1989, RSO, 1990 or any other applicable information or privacy legislation; and
- (h) To ensure compliance with all applicable legislation, trade agreements and the Accessibility for Ontarians with Disabilities Act. If inconsistencies exist between this Policy and applicable legislation, the applicable legislation shall prevail.

## **RESPONSIBILITIES & PROHIBITIONS FOR PROCURING GOODS AND/OR SERVICES**

### **SECTION 3**

#### **(1) General Responsibilities**

- (a) All County of Dufferin elected officials and staff delegated with the authority to procure shall comply with the Procurement Policy for the County of Dufferin. Without limiting the foregoing, such elected officials and staff shall follow the Statement of Ethics for Public Procurement attached as Schedule A to the Procurement Policy, the County's Code of Conduct for Employees Policy and Policy # 15 – Conflicts of Interest.
- (b) Procurement activities shall be subject to all applicable County of Dufferin policies and by-laws, any specific provisions of the *Municipal Act, 2001* and all other relevant Federal and Provincial legislation, as may be in effect from time to time.

#### **(2) Procurement Section Responsibilities**

The County's Treasury Department shall provide procurement oversight and coordination of all procurement activities. Coordination of procurement activities will include the following specific responsibilities:

- (a) Be responsible for the administration of the Procurement Policy and will continually review the procurement of Goods and/or Services to ensure the County is receiving the best value and adhering to the Procurement Policy.
- (b) Ensure that procurement transactions are conducted ethically and professionally in accordance with Schedule A – Statement of Ethics for Public Procurement.
- (c) In consultation with the Originating Department, advise on the practicability of Specifications to ensure fairness and a maximum number of competitive Bids.
- (d) Notify vendors who have expressed an interest in doing business with the County of the availability of the procurement documents.
- (e) Prepare necessary procurement documents and process Purchase Orders.
- (f) Advise and assist in the preparation of Contracts when requested.
- (g) Provide guidance and advice as well as training and documentation on the

Procurement Policy and Procurement Procedures and Guidelines to all relevant County staff.

- (h) Maintain records of procurement transactions as required.

(3) Department Head Responsibilities

- (a) Ensure all purchases are performed in accordance with the Procurement Policy and make required reports to the Council or any other party regarding compliance with the Procurement, as required. The Treasury Department will offer advice and assistance in assuring that the Procurement Policy is adhered to upon request.
- (b) Delegate Approval Authority to the appropriate levels and maintain the responsibility for such actions including answering questions raised by such delegation.

(4) Procurement Sub-Committee Responsibilities

The Procurement Sub-Committee shall:

- (a) Review and give input to the biennial report recommending any changes to the Procurement Policy in accordance with Policy #19 – Review of the Procurement Policy.
- (b) Be delegated the authority to impose a temporary ban upon a vendor in accordance with Policy #1 – Vendor Eligibility.

(5) Prohibitions

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

- (a) Any attempt to evade or circumvent the requirements of the Procurement Policy including, but not limited to, the division of purchases to avoid the requirements of the Procurement Policy by any method, which includes purchases made using procurement cards.
- (b) Purchase by the County of any Goods and/or Services for personal use by or on behalf of any member of Council, employees of the County and their immediate families.
- (c) The acceptance of gifts, benefits, money, discounts, favours or other assistance by any member of Council, employees of the County, and their families contrary to the County of Dufferin Code of Conduct for Members of



Council, as amended, repealed or replaced from time to time, the County's Code of Conduct for Employees Policy or such other similar policy currently in force. The image and integrity of the employee and the County of Dufferin must be preserved at all times.

- (d) Purchase by the County from any member of Council or employee of the County, their family members or from any other source, that would result in a conflict of interest, unless that interest has been declared pursuant to the *Municipal Conflict of Interest Act* or pursuant to the County's Code of Conduct for Employees Policy or such other similar policy currently in force.

(6) Exemptions

Those items listed in Schedule B - Exemptions, are exempt from the requirements of the Procurement Policy, save and except for Policy # 2 - Approval Authority and Policy #15 – Conflicts of Interest.

**PROCUREMENT POLICY**  
**POLICY # 1 - Vendor Eligibility**

**SECTION 4.1**

- (1) The County will make reasonable efforts to maintain an electronic vendor database of those vendors who have expressed an interest in doing business with the County and who have completed a registration form.
  
- (2) Without limiting or restricting any other right or privilege of the County and regardless of whether or not a Bid otherwise satisfies the requirements of a Request for Prequalification, RFP or RFT, the County may reject any Bid from a vendor where,
  - (a) in the opinion of the County, the commercial relationship between the County and the vendor has been impaired by the act(s) or omission(s) of such vendor including but not limited to any one or more of the following having occurred within the five year period immediately preceding either the date on which the RFP or RFT is awarded or the date on which the vendor has been shortlisted pursuant to a Request for Prequalification:
    - (i) the vendor being involved in litigation with the County;
    - (ii) act(s) or omission(s) resulting in a claim by the County under any security submitted by the vendor on a RFP or RFT, including but not limited to a bid bond, a performance bond, or warranty bond;
    - (iii) the failure of the vendor to pay, in full, all outstanding payments (and, where applicable, interest and costs) owing to the County by such vendor, after the County has made demand for payment of same;
    - (iv) the vendor's refusal to follow reasonable directions of the County or to cure a default under any Contract with the County as and when required by the County;
    - (v) the vendor's refusal to enter into a Contract with the County after the vendor's Bid has been accepted by the County;
    - (vi) documented poor performance of a vendor as per Policy # 8 – Vendor Performance Evaluation, including the vendor's refusal to perform or to complete performance of a Contract with the County;

- (vii) the vendor having unlawfully or unreasonably threatened, intimidated, harassed, or otherwise interfered with an attempt by any other prospective vendor to bid for a County Contract or to perform any Contract awarded by the County to that vendor;
- (viii) the vendor having discussed or communicated, directly or indirectly, with any other vendor or their agent or representative about the preparation of the vendor's Bid including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge of any other vendor making a Bid for the same work except in the instance of a Joint Venture where one is permitted.
- (ix) the vendor having unlawfully or unreasonably threatened, intimidated, harassed, assaulted or committed battery against, or otherwise interfered with an official, employee, representative, agent or independent consultant or contractor of the County in the performance of his or her duties or in any way attempted to influence such persons;
- (x) the vendor has on one or more occasions, in the performance of a Contract with the County, deliberately, with wilful blindness or negligence, save and except an inadvertent error corrected to the satisfaction of the County within a reasonable time, as determined by the County,
  1. over-billed, double-billed and/or retained a known over-payment, or has failed to notify the County of an over-payment or duplicate payment;
  2. billed for items not supplied;
  3. billed for items of one grade, while supplying items of an inferior grade;
  4. made a misrepresentation as to the quality or origin of Goods, their functionality or suitability for a purpose, or their performance characteristics;
  5. submitted false or misleading information to the County;
  6. acted in conflict with the County's interests;
  7. misappropriated any property or right of the County, in any form; or
  8. committed any other form of sharp or deceptive practice;

- (xi) any other act or omission by the vendor that the County deems to impair the commercial relationship between the County and the vendor.
- (b) in the opinion of the County there are reasonable grounds to believe that it would not be in the best interests of the County to enter into a Contract with the vendor, including but not limited to:
- (i) the conviction of that vendor or any person with whom that vendor is not at arm's length within the meaning of the *Income Tax Act* (Canada) of an offence under any taxation statute in Canada;
  - (ii) the conviction or finding of liability of that vendor under the *Criminal Code* or other legislation or law, whether in Canada or elsewhere and whether of a civil, quasi-criminal or criminal nature, of moral turpitude including but not limited to fraud, theft, extortion, threatening, influence peddling and fraudulent misrepresentation;
  - (iii) the conviction or finding of liability of that vendor under any environmental legislation, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that vendor for the environmental well-being of the communities in which it carries on business;
  - (iv) the conviction or finding of liability of that vendor relating to product liability or occupational health or safety, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that vendor for the health and safety of its workers or customers;
  - (v) the conviction or finding of liability of that vendor under the financial securities legislation whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that vendor for its stakeholders.
- (3) For the purposes of subsections (2), (4), (5), (6)(d), (7), (8) and (9) of this Policy # 1, a reference to a vendor shall also include: an officer, a director, a majority or controlling shareholder, or a member of the vendor, if a corporation; a partner of the vendor, if a partnership; any corporation to which the vendor is an affiliate of or successor to, or an officer, a director or a majority or controlling shareholder of such corporation; and any person with whom that the vendor is not at arm's length within the meaning of the *Income Tax Act* (Canada).

- (4) In the circumstances described in subsections (2) and (8), the County may, in addition or in the alternative to rejecting a Bid from a vendor, ban a vendor from competing for or being awarded any County Contract for a period of up to ten years.
- (5) Without limiting or restricting any other right or privilege of the County, the County may refuse to enter into a Contract with a vendor where any of the circumstances described in (2)(a), (2)(b) or (8) of this Policy # 1 have occurred within the five year period preceding the date on which the refusal to enter into the Contract is approved by Council. In addition or in the alternative to refusing to enter into the Contract, the County may ban a vendor from competing for or being awarded any County Contract for a period of up to ten years.
- (6) Where the Contract is awarded to a vendor who has made an unauthorized amendment to the County's pre-printed forms (e.g. *Form of Proposal* or *Form of Tender*) or other documents submitted as part of the vendor's Bid, then within a reasonable time of the County discovering that unauthorized amendment, the County may,
  - (a) permit the vendor to withdraw an unauthorized amendment to the County's *Form of Proposal* or *Form of Tender*, at no cost to the County; or
  - (b) cancel or terminate the Contract without any compensation whatsoever to the vendor by giving written notice to that effect to the vendor; or
  - (c) recover from such vendor any amounts the County paid to the vendor and all costs, expenses, damages and losses incurred or accrued by the County as a result of the unauthorized amendment; or
  - (d) ban such vendor from competing for or being awarded any County Contract for a period of up to ten years where, in the opinion of Council, the change was made by the vendor as part of a deliberate attempt to deceive and such deception has resulted in an impairment of the commercial relationship between the County and such vendor,

Or any combination of the foregoing.

- (7) Where a vendor has the Lowest Compliant Bid to a RFQ or RFT or has the successful Bid in accordance with the evaluation methodology set out in a RFP, which Bid has been rejected due to the vendor's failure to initial a legible change such as an erasure, strike out, white out, cross out or overwriting, within three business days of the County's request, the vendor shall also be banned from competing for or being awarded any County Contract for a period of one year. Only the ban, and not the rejection of the Bid, may be challenged by the vendor in

accordance with Policy # 16 – Dispute Resolution.

(8) No Lobbying and Single Point of Contact

- (a) A vendor and its representatives shall not,
- (i) make any public comment, respond to questions in a public forum, or carry out any activities to publicly promote or advertise their qualifications, their service or product, or their interest in a RFQ/RFP/RFT/RFRC/ Request for Prequalification, other than through general advertising in the normal course of business.
  - (ii) communicate with the County regarding a RFQ/RFP/RFT/RFRC/Request for Prequalification except through the Treasurer or designate identified in the RFQ/RFP/RFT/RFRC/Request for Prequalification, who shall be the single point of contact for that procurement document.
  - (iii) having a single point of contact for the RFQ/RFP/RFT/RFRC/Request for Prequalification is intended to allow all other persons involved with the RFQ/RFP/RFT/RFRC/Request for Prequalification on behalf of the County to avoid any perception of a conflict of interest and to conduct the procurement set out in the RFQ/RFP/RFT/RFRC/Request for Prequalification in as fair and objective a manner as possible.
  - (iv) make any attempt to contact, directly or indirectly, any of the following persons, with respect to a RFQ/RFP/RFT/RFRC/Request for Prequalification,
    - 1. any member of an evaluation team;
    - 2. any member of a costing team;
    - 3. any expert, independent consultant or other advisor assisting the County;
    - 4. any elected County official;
    - 5. any staff of the County of Dufferin or its advisors; or
    - 6. any other persons connected in any way with the procurement document;

Until such time when the RFQ/RFP/RFT/RFRC/Request for Prequalification is cancelled or awarded.

- (b) The only exception to the above for a vendor or its representatives is as set out in Policy # 16 – Dispute Resolution if the vendor has a complaint related to the evaluation of its Bid and/or recommendation of award with respect to the procurement document.
- (c) A vendor who has been awarded a Contract shall not engage in any contact or activities in an attempt to influence any elected County official or County staff with respect to the purchase of additional enhancements, requirements, options, or modules. A vendor may communicate with the County and County staff for the purposes of administration of the Contract during the term of the Contract.

The determination of what constitutes an attempt to influence shall be at the sole discretion of the County, acting reasonably, and is not subject to challenge under Policy # 16 - Dispute Resolution.

- (9) Where the Procurement Sub-Committee is satisfied that there is sufficient evidence of act(s) or omission(s) described in this Policy #1 on the part of a vendor, the Sub-Committee may impose a temporary ban upon the vendor from competing or being awarded any County Contract while an investigation is being conducted by the Treasurer. The ban may be up to 12 months. The Procurement Sub-Committee's decision shall be final with respect to the temporary ban.
- (10) Where a temporary ban is imposed under subsection (9), the Treasurer shall, prior to the expiry of the temporary ban, report to the appropriate standing committee of Council the status of the investigation and any recommendations for further action.

## POLICY # 2 - Approval Authority

### SECTION 4.2

- (1) Any person delegated Approval Authority pursuant to this Policy # 2 shall ensure that an approved budget exists for the proposed procurement and that such procurement does not violate any County policies or Legislation. Any such procurement shall also satisfy any applicable audit requirements of the County.
- (2) The following bodies and persons shall have the respective Approval Authority as set out below:
  - (a) **Department Heads** must approve any procurement of a value up to but not including \$50,000 save and except in an Emergency wherein Policy # 10 – Emergency Procurements shall apply. The Department Head may sub-delegate such Approval Authority to his/her staff, who are referred to as an Authorized Delegate in the table below, at the procurement values he/she deems appropriate. Staff who have been further delegated Approval Authority from the Department Head to approve procurements **shall have no authority to** delegate this Approval Authority to any other person.
  - (b) The following chart indicates the approval authorities for various Procurement Policies in accordance with this Policy #2 as well as the persons having the authority to execute contracts in accordance with Policy #13 – Authority to Execute Contracts.
- (3) Authorization to Purchase

The Department Signing List controls signature authorization for all major financial transactions. Only persons officially designated on the Department Signing List shall have the authority to issue requisitions in conjunction within their spending limits. The Chief Administrative Officer or a Department Head designates the person(s) within the department who are authorized to approve financial transactions on accounts attributed to the Department. Requisitions may be initiated at any level but only persons on the Department Signing List can authorize approval. Treasury will maintain the approval list.



PROCUREMENT POLICY	ESTIMATED VALUE** (\$, Canadian Funds, exclusive of applicable taxes)	APPROVAL AUTHORITY POLICY #2
Policy # 5.1 Low Dollar Value Procurements	Up to but not including \$10,000	Department Head or Authorized Delegate
Policy # 5.2 Request for Quotations	\$10,000 to \$49,999	Department Head or Authorized Delegate
Policy # 5.3 Request for Tenders	\$50,000 or greater	Department Head unless any of the conditions in subsection (4) of Policy # 2 apply, then Council approval is required.
Policy # 5.4 Request for Proposals	\$50,000 or greater	Department Head unless any of the conditions in subsection (4) of Policy #2 apply, then Council approval is required.
Policy # 5.3 Request for Tenders Policy # 5.4 Request for Proposals	\$50,000 or greater	Council a) where the funds to procure the goods and services have not been previously approved through the budget process;

\*(persons authorized to execute the Contract and all necessary associated documents. Includes persons in an acting position)

\*\* (this is applicable to both procurements, revenue generating contracts and sponsorships)

- (4) The Originating Department in conjunction with Treasury shall submit a report to Council and the appropriate standing committee recommending award of a RFT or RFP if **ANY** of the following conditions apply:

- (a) the value of the Bid being recommended for award and any contingency allowance are in excess of the Council approved budget including any contingency allowance, or
  - (b) for capital projects, when the final cost of the proposed project exceeds the amount provided in the Council approved capital budget for that project by more than 5 percent or \$50,000, whichever is less, or
  - (c) for RFTs, the award is not being made for the Lowest Compliant Bid, or
  - (d) for RFPs, the award is not being made in accordance with evaluation methodology set out in the RFP, or
  - (e) there are Provincial or Federal government requirements for Council approval.
- (5) The Department Head shall submit a report to Council and the appropriate standing committee recommending a non-competitive procurement of \$50,000 or greater in accordance with Policy #11 – Non-competitive Procurements.
- (6) Council may delegate further Approval Authority as it considers necessary from time to time, including but not limited to, any extended time periods during which Council does not meet.
- (7) The Treasurer shall prepare a quarterly status report to Council on Request for Tenders and Request for Proposals which shall identify those procurements:
- (a) which have been issued, but not yet closed,
  - (b) which have closed and are under review, and
  - (c) which have been awarded or cancelled,
- Since the previous status report.
- (8) The issuance and approval of award of a Revenue Generating Contract of any value requires the approval of the Department Head and shall follow the approval matrix as laid out in Section 4.2, subsection (3).
- (9) Acceptance of a Sponsorship of any value requires the approval of the Department Head of the originating Department and shall follow the approval matrix as laid out in Section 4.2, subsection (3).

## POLICY # 3 - Specifications

### SECTION 4.3

- (1) The following requirements shall be followed in the preparation of the Specifications:
  - (a) Specifications are to be detailed but not brand specific, unless standardized in accordance with Policy # 14 – Standardization to maintain a competitive procurement process.
  - (b) Where the Specification requirements of the Department will result in a non-competitive purchase, the Department shall follow Policy # 11 – Non-competitive Procurements.
  - (c) Departments shall consult with the Information Technology Division prior to the proposed procurements that relate to new software purchases.
  - (d) Vendors or potential vendors 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 normal level of service expected from vendors. Where such services are required,
    - (i) the Treasurer must be advised;
    - (ii) the contracted vendor will be considered a consultant and will not be allowed to make an offer of the supply of the Goods and/or Services;
    - (iii) a fee shall be paid, the amount of which shall be determined and agreed upon by the vendor before the services commence; and
    - (iv) the detailed Specifications shall become the property of the County, and can be used in obtaining Bids.
  - (e) Notwithstanding any assistance in the preparation of the Specifications by a consultant, the Specifications shall be and remain the property of the County.
  - (f) Where it is not possible to prepare precise Specifications to issue a Request for Tenders, a Request for Proposals shall be issued. The originating Department, in cooperation with the Treasury Department, shall prepare evaluation criteria and weightings for the criteria. The RFP shall clearly distinguish those requirements that are deemed mandatory and non-mandatory and shall clearly outline how these items will be evaluated.
  - (g) When preparing the Specifications, the originating Department shall be knowledgeable of the *Ontarians with Disabilities Act, 2001*, the *Accessibility*

*for Ontarians with Disabilities Act, 2005* and their regulations thereunder, as amended, re-enacted or replaced from time to time, and apply those requirements with respect to procuring Goods and/or Services and in the development of the Specifications.

- (h) When preparing the Specifications, the 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 will require the vendor to be responsible for and bear the cost for the removal and disposal of the packaging materials.
- (2) The preparation of the Specifications for Request for Quotations, Request for Proposals or Request for Tenders shall be the responsibility of the originating Department. Specifications shall be approved by the Department Head and forwarded directly to the Treasury Department.
- (3) The Treasury Department shall have the authority to review and recommend improvements to the Specifications when deemed necessary. The Department shall cooperate with the Treasury Department in the finalization of the Specifications. Should the Treasury Department and the Department not be able to reach agreement on Specifications within the allotted timeline, the Department Head and Treasurer will attempt to resolve the matter.
- (4) The County may issue a Request for Information or RFI through the Treasury Department. 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. Any resulting competitive procurement process will be issued in accordance with Policy # 5 – Determining the Procurement Process.

## **POLICY # 4 - Prequalification of Vendors**

### **SECTION 4.4**

- (1) The purpose for prequalification of vendors is to ensure that each vendor intending to perform work on a County Contract can demonstrate its ability to provide the necessary expertise and resources to satisfactorily complete the work required.
- (2) Prequalification of vendors shall be issued through Centralized Procurement and will only be considered in the following circumstances:
  - (a) the work will require substantial project management by the County if the vendor is not appropriately experienced and could result in a substantial cost to the County;
  - (b) the Goods and/or Services to be purchased must meet specific regulatory standards;
  - (c) the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials, or financial requirements;
  - (d) there could be a substantial impact on County operations if the work is not satisfactorily performed the first time;
  - (e) where time requirements necessitate efficient use of time and expertise;
  - (f) any other circumstances deemed appropriate by the Treasurer.
- (3) Prequalification requires vendors to provide such information as requested by the County to determine that the vendor has the capability in all respects to perform the contract requirements. This information may include such things as:
  - (a) previous experience on similar work (firm and staff assigned);
  - (b) capacity to fulfill the contract requirements;
  - (c) the facilities and/or equipment to perform the work.
- (4) Vendor submissions will be evaluated, ranked, and a list of prequalified vendors will be established.

(5) **Vendors of Record:**

Vendors may be granted Vendor of Record status. This will be predicated upon competitive pricing, quality workmanship and exemplary service. As such, purchasing requirements with a value of under \$10,000 per incidence shall be directed to Vendors of Record. Purchase requirements with a value of \$10,000 or greater shall be subject to the appropriate bidding process outlined in Policy 5 of this policy.

## **POLICY # 5 - Determining the Procurement Process**

### **SECTION 4.5**

- (1) Sales taxes, excise taxes, value added taxes, duties and shipping shall be excluded in determining the procurement limit of Authorized Delegates and the type of procurement process to be followed.
- (2) The dollar values identified in this Procurement Policy represent the **annual** estimated procurement value for a Good and/or Service to be procured. The annual estimated procurement value is the cumulative value of a particular Good and/or Service in one calendar year. For multi-year Contracts, the estimated total procurement value over the term of the Contract, including any renewal periods, shall be used as the basis for determining which procurement process and Approval Authority applies.
- (3) It should be the intent of the Department to procure Goods and/or Services of like nature as a combined effort.
- (4) Where Provincial and/or Federal Governments impose unique requirements in order to qualify for funding, the County's procurement documents will be amended to include those provisions.
- (5) Where the estimated gross revenue for a Revenue Generating Contract is \$10,000 or greater, the Revenue Generating Contract shall follow the Approval Authority in Policy 2 and be processed through Treasury.

Service Revenue Contracts of any value shall be exempt from the public procurement processes outlined in the Procurement Policy, save and except Policy # 2 – Approval Authority and Policy # 13 – Authority to Execute Contracts. Mixed Revenue Contracts are not exempt.

In the event that a Revenue Generating Contract falls under more than one County Policy, both Policies must be adhered to unless that Contract and/or the other County Policy is specifically exempted from the Procurement Policy.

**POLICY # 5.1 - Low Dollar Value Procurements (Up to but not including \$10,000)**

**SECTION 4.5.1**

- (1) Departments shall utilize all existing County Contracts where applicable and shall otherwise be in accordance with the Procurement Policy.
- (2) Obtain best efforts and competitive pricing.
- (3) The Department Heads may delegate Approval Authority to their staff for Low Dollar Value Procurements. This procurement function has been de-centralized and therefore, it is the responsibility of the respective Department Head to ensure that the Procurement Policy is adhered to.
- (4) Neither a RFQ, RFP nor RFT is required for Low Dollar Value Procurements.
- (5) For any purchases greater than \$5,000 and less than \$10,000, a minimum of two bids are required. Bids can be via voice, email, formal quote or internet pricing and must be documented. All documentation shall be forwarded to Treasury.



**POLICY # 5.2 - Request for Quotations  
(\$10,000 – up to but not including \$50,000)**

**SECTION 4.5.2**

- (1) Departments shall utilize all existing County Contracts where applicable and shall otherwise be in accordance with the Procurement Policy.
- (2) For procurements where there are no applicable County Contracts, a Request for Quotations process is used by the originating Department in the following manner:
  - (a) Unless otherwise approved by the Treasury Department, a minimum of three compliant Bids shall be obtained by any method of written communication;
  - (b) Bids must be received from a minimum of three separate vendors;
  - (c) a “No Bid” response shall not be considered a valid Bid;
  - (d) all vendors shall receive the same Request for Quotations written information;
  - (e) the Request for Quotations shall be awarded to the Lowest Compliant Bid;  
and
  - (f) all documentation obtained in receipt of quotes shall be included with the Purchase Order and provided to Treasury in accordance with County By-law No. 2017-12 (To provide for the Classification, Retention and Destruction of the records of the County of Dufferin), as amended, re-enacted or replaced from time to time.

The Treasurer may waive the requirement for three Bids, but will only do so where the Client Department has demonstrated to the satisfaction of the Treasurer that a minimum of three Bids cannot be obtained.

- (3) Any multi-year Request for Quotations, including any contract with option(s) to extend, must be reviewed and approved by the Treasury Department prior to the RFQ being issued. As well, all Bids received in response to a multi-year Request for Quotations and any award recommendation shall also be reviewed by the Treasury Department to ensure compliance with the RFQ and this Policy #5.2.
- (4) Staff is encouraged to seek more than the minimum three written Bids to ensure a more competitive process and to utilize any Request for Quotations template provided by the Treasury Department
- (5) In the event that two or more identical Bids are received and are the Lowest Compliant

Bids, best and final offers will be solicited from each of these vendors in order to break the tie. If this effort is unsuccessful, then a draw will be held to determine the successful vendor.

- (6) The Treasury Department shall assist when requested by the Department, or when deemed necessary, with the Request for Quotations process.
- (7) The Goods and/or Services shall be procured through a Purchase Order, Contract process and/or any other process as approved by the Treasurer. Where a formal Contract is necessary, such Contract shall be in a form satisfactory to the County Solicitor.
- (8) When a Department would like to issue a RFP in lieu of a Request for Quotations, the RFP shall be issued by the Treasury Department in the same manner as for Requests for Proposals in Policy # 5.4 of the Procurement Policy.

## **POLICY # 5.3 - Request for Tenders (\$50,000 and greater)**

### **SECTION 4.5.3**

- (1) Departments shall utilize all existing County Contracts where applicable and shall otherwise be in accordance with the Procurement Policy.
- (2) For procurements where there are no applicable County Contracts,
  - (a) the Request for Tenders process is to be used for Goods and/or Services with an estimated procurement value of \$50,000 or greater and where comprehensive technical Specifications can be developed;
  - (b) the Request for Tenders process must be implemented through Treasury;
  - (c) all Requests for Tenders shall be issued and awarded in accordance with the tendering procedures as determined by the Treasurer;
  - (d) the Request for Tenders shall be awarded based on the Lowest Compliant Bid. In the event that two or more identical Bids are received and are the Lowest Compliant Bids, best and final offers will be solicited from each of these vendors in order to break the tie. If this effort is unsuccessful, then a draw will be held to determine the successful vendor.
- (3) When no compliant Bids are received in response to a Request for Tenders, and
  - (a) where time permits, in the opinion of the Department Head, the Request for Tenders shall be re-issued with the appropriate revisions; or
  - (b) where only one Bid has been received, the Treasurer in conjunction with the originating Department may proceed to negotiate the changes required to achieve an acceptable Bid, provided that such changes will not alter the general nature of the procurement described in the Request for Tenders; or
  - (c) where time does not permit the re-issuance of the Request for Tenders in the opinion of the Department Head, and the Request for Tenders is not otherwise being revised, all vendors who submitted a Bid or secured the original Request for Tenders shall be given the opportunity to submit a new Bid. The Treasury Department will communicate to each vendor who previously submitted a Bid, any deficiencies that resulted in its Bid being deemed non-compliant. This process may utilize a post-closing addendum.

- (4) Where one or more Bids have been received and are in excess of budgeted funds, the Department Head in consultation with the Treasurer may enter into negotiations with the vendor submitting the Lowest Compliant Bid, where it is agreed that the changes required to achieve an acceptable Bid will not change the general nature of the requirement described in the RFT.
- (5) The Goods and/or Services shall be procured through a Purchase Order, Contract process and/or any other process as approved by the Treasurer. Where a formal Contract is necessary, such Contract shall be in a form satisfactory to the County Solicitor.
- (6) Where a Time-Sensitive situation occurs, the Treasurer may authorize the Department to utilize the Policy # 5.2 - Request for Quotations in lieu of the Request for Tenders process. For example, procurement of goods and services as a result of time limited funding.

## **POLICY # 5.4 - Request for Proposals (\$50,000 and greater)**

### **SECTION 4.5.4**

- (1) Departments shall utilize existing County Contracts where applicable and shall otherwise be in accordance with the Procurement Policy.
- (2) For procurements where there are no applicable County Contracts,
  - (a) the Request for Proposals process is to be used for Goods and/or Services with an estimated procurement value of \$50,000 or greater and where comprehensive technical Specifications cannot be fully defined or specified, or when alternate methods are being sought to perform a certain function or service, at the time of the request;
  - (b) the Request for Proposals process must be implemented through Treasury;
  - (c) the Request for Proposals shall be issued and awarded in accordance with the RFP procedures as determined by the County's Treasurer;
  - (d) the Request for Proposals shall clearly set out the evaluation criteria and weightings upon which an award of the Request for Proposals may be made.
- (3) Treasury will facilitate the RFP evaluation process. An evaluation committee will be formed with a minimum of three evaluators and be comprised of at least one representative from the originating Department. The evaluators shall review all compliant Bids against the established criteria, reach consensus on the final rating results, and ensure that the final rating results with supporting documents are kept in the procurement file.
- (4) All Bids that meet the mandatory requirements (terms, conditions and Specifications) outlined in the Request for Proposals document shall be evaluated based on the evaluation criteria and weightings, subject to any rights or privileges reserved by the County;
- (5) Any award shall be made in accordance with the evaluation criteria and weightings contained in the Request for Proposals document, subject to any rights or privileges reserved by the County or as otherwise approved by Council.

- (6) When no compliant Bids are received in response to a Request for Proposals, and
- (a) where time permits in the opinion of the Department Head, the Request for Proposals shall be re-issued with the appropriate revisions; or
  - (b) where time does not permit the re-issuance of the Request for Proposals in the opinion of the Department Head, the Request for Proposals is not otherwise being revised, and the non-compliance is associated only with the pricing portion of the multi step evaluation process, all vendors who have successfully passed the technical proposal requirements of the Request for Proposals shall be given the opportunity to submit a new price Bid only. The Treasury Department will communicate to each of these vendors, any Bid deficiencies that resulted in its Bid being deemed non-compliant with respect to pricing. This process may utilize a post-closing addendum.
- (7) Where only one Bid has been received in response to a Request for Proposals and
- (a) is non-compliant; or
  - (b) has successfully passed the technical proposal requirements but the Bid is non-compliant with respect to pricing,

The Treasurer in conjunction with the originating Department may proceed to negotiate the changes required to achieve an acceptable Bid, provided that such changes will not alter the general nature of the requirement described in the Request for Proposals.

- (8) Where the Bid being recommended for award is in excess of budgeted funds, the Department Head in consultation with the Treasurer may enter into negotiations with the vendor submitting that Bid, provided that it is agreed by both the County and the vendor that the changes required to achieve an acceptable Bid will not alter the general nature of the requirement described in the RFP.
- (9) Except where another process is approved by the Treasurer, the Goods and/or Services shall be procured through a Purchase Order and/or Contract process. Where a formal Contract is necessary, such Contract shall be in a form satisfactory to the County Solicitor.

## **POLICY # 6 - Unsolicited Proposals**

### **SECTION 4.6**

- (1) If it is determined that there is a legitimate need for the Goods and/or Services offered by way of an unsolicited proposal, then an acquisition process shall be conducted in accordance with the Procurement Policy.

## **POLICY # 7 - Construction Contracts**

### **SECTION 4.7**

- (1) Where the procurement of Goods and/or Services involves construction, such construction Contracts must also meet the requirements of the Procurement Policy. However, construction Contracts of \$50,000 or greater also require both a Purchase Order and a written legal agreement, in a form satisfactory to the County Solicitor.
- (2) For an approved construction Contract in which an unexpected circumstance arises during construction resulting in additional construction work, the Department Head may authorize the payment for such work and approve any required purchase acquisition documents, including a completed *Construction Contracts Form*.
- (3) Where additional consultancy work is required to oversee or administer the additional construction work referred to in subsection (2), and the consultancy services were not issued as a Policy #9 – Consulting and Professional Services roster assignment, Policy #10 Emergency – Procurements or Policy #11 – Non-competitive Procurement, the Department Head may authorize the payment for such consultancy work and approve any required purchase acquisition documents, including a completed *Construction Contracts Form*.
- (4) The *Construction Contracts Form* shall detail what additional construction or consultancy work was required to address the unexpected circumstances. Such additional work shall not expand the scope of the work but shall have been determined to be necessary in order to deliver the original approved work.

## POLICY # 8 - Vendor Performance Evaluation

### SECTION 4.8

- (1) At the completion of every Contract for Goods and/or Services of \$50,000 or greater, the Client Department shall complete a *Vendor Performance Evaluation Form*. The Department Head shall ensure this performance evaluation is completed for these Contracts. Such evaluation shall be completed and a copy will be forwarded to the Treasury Department.
- (2) At the completion of every Contract for Goods and/or Services of less than \$50,000, it is at the discretion of the Client Department to complete a performance evaluation. Such evaluation shall be completed and a copy will be forwarded to the Treasury Department.
- (3) In the event of poor performance or non-performance of a vendor at any time during the term of any County Contract, the Department Head shall complete and forward a copy of the *Vendor Performance – Incident Reporting Form* as soon as reasonably possible after the occurrence to the Treasury Department.
- (4) Documented poor performance or non-performance on any County Contract will be used to determine the eligibility of a vendor to continue to provide Goods and/or Services to the County on a current Contract and to determine their ability to participate on future County Contracts. Any vendor may be excluded from a bidding process due to documented poor or non-performance or where in the opinion of the County, the commercial relationship between the County and such vendor has been impaired.
- (5) The County's Public Works Department shall be responsible for the vendor performance evaluation process with respect to linear construction Contracts issued by that department under Policy # 7 – Construction Contracts.
- (6) In the event of a vendor's breach of a County Contract, the Treasurer in consultation with the Department Head shall have the discretion to either:
  - (a) re-issue the RFQ, RFT or RFP; or
  - (b) negotiate and enter into a new Contract for the remaining years of the Contract with the second lowest bidder of the original RFT or RFP,

Whichever is in the best interests of the County.



## **POLICY # 9 - Consulting and Professional Services**

### **SECTION 4.9**

- (1) Unless otherwise provided, Consulting and Professional Services shall be acquired in accordance with the Procurement Policy.
- (2) A Consulting and Professional Services roster will be established every two years through a formal Request for Rostered Candidates process. Work assignments presented to vendors on an approved list (rostered candidates) will be distributed on a rotational basis as well as a “best fit” basis and having an estimated procurement cost of less than \$50,000.
- (3) The Department Head shall award such works by direct appointment through the Treasury Department. Treasury shall ensure that there is a reasonably equitable distribution of the works, based on the total dollar value of the work. This method allows the County to employ a number of different consultants while matching the particular talents of a consultant to the project needs.
- (4) The Department Head and the Treasurer shall approve the appointment of rostered candidates and any acceptable subsequent change in any rostered candidate for their respective roster categories in accordance with the Request for Rostered Candidate document.

## **POLICY # 10 – Emergency Procurements**

### **SECTION 4.10**

(1) 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; and
- (e) An imminent or actual spill of a pollutant as contemplated by Part X of the Environmental Protection Act.

(2) Where in the opinion of the Department Head, in consultation with the Chief Administrative Officer, an Emergency exists, Goods and/or Services shall be acquired by the most expedient and economical means when deemed necessary.

- (a) The Treasury Department will provide cooperative assistance when requested to expedite any procurement documents necessary to deal with the Emergency.
- (b) The Department Head shall provide the reasons for his or her opinion that an Emergency exists and shall approve any purchase acquisition document issued under such conditions.

## POLICY # 11 - Non-competitive Procurements

### SECTION 4.11

- (1) Subject to Policy # 2 - Approval Authority, the Department Head of the originating Department will approve the *Non-competitive Procurement Form*, justifying the need to use this Policy # 11 prior to County staff entering into any discussions with any vendor regarding the purchase of the Goods and/or Services. This process may be adopted when any of the following conditions apply:

(a) **Short Supply**

- when Goods and/or Services are judged to be in short supply due to market conditions (short supply)

(b) **Single Source** – when a single source for the supply of a particular Good and/or Service is being recommended because it is more cost effective or beneficial for the County (single source);

- when the expertise of an individual organization or individual is deemed to be specifically required by the municipality
- when the procurement is for technical services in connection with the assembly, installation or servicing of equipment of a highly technical or specialized nature
- when the procurement is for parts or components to be used as replacements in support of equipment specifically designed by the manufacturer and/or compatibility with existing products is required to avoid violating the warranty
- when the carrying out of work by a contractor other than the contractor who did the original work would nullify the warranty or guarantee held
- when an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority, such as an environmental, public health, or workplace safety compliance order
- when goods are purchased under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases

**(c) Sole Suppliers and Licensed Professionals**

- where there is only one supplier available and no alternative or substitute exists
- where there is a statutory monopoly on the product or service

**(d) Contract Extensions**

- where a County Contract has expired or will very shortly expire and unforeseeable circumstances have caused a delay in issuing a new RFP or RFT so that a Contract extension is required (contract extension).

**(e) Emergency, Protection, and Security Concerns**

- where an unforeseeable situation of urgency exists and the goods or services cannot be obtained in time through a competitive process
- where goods or consulting services regarding matters of a confidential nature are to be purchased and the disclosure of those matters through an open competitive process would compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest
- where competitive sourcing would compromise the ability to maintain security or order or to protect human, animal, or plant life or health
- where the procurement is for health services or social services

**(f) Special Financing Arrangements**

- where a contract is to be awarded under a cooperation agreement, only to the extent that such agreement includes different rules for awarding contracts
- where the procurement is for goods or services that are financed primarily from donations that are subject to conditions

**(g) Warranties/Guarantees, Exclusive Rights, and Lease Arrangements**

- where it is necessary to ensure compatibility with existing products, recognize exclusive rights such as copyrights, patents, or exclusive licences, or maintain specialized products that must be maintained by the manufacturer or its representative

- where the carrying out of work by a contractor other than the contractor who did the original work would nullify the warranty or guarantee held where construction or renovation work on a leased building may be performed only by the lessor of the building
- where the purchase of goods is already covered by a lease-purchase agreement where payments are partially or totally credited to the purchase

**(h) Miscellaneous Circumstances**

- where goods or services are purchased on behalf of an entity other than the County
- where no bids were received in a competitive process
- where the procurement of goods is intended for resale to the public
- where the purchase of goods or services is related to cultural or artistic fields, as well as computer software for educational purposes
- where goods are purchased under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases
- where the procurement involves research and development or production of a prototype or original concept and subsequent purchase of these products or services is to be made through a competitive process
- where the procurement is for financial services respecting the management of financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution
- where a contract is to be awarded to the winner of a design contest

(2) Council must approve any requests for negotiations with a vendor as set out in subsection (1) of this Policy # 11, where the cumulative value of the Policy 11 exceeds \$50,000.

- (3) All approved forms shall be forwarded to the Treasury Department. The Treasurer will be responsible for reporting the use to Council on a quarterly basis.

<b>TOTAL CUMULATIVE VALUE (\$, Canadian, Not including tax)</b>	<b>APPROVAL TO INITIATE POLICY # 11 PROCESS</b>	<b>APPROVAL TO ENTER INTO CONTRACT</b>
\$10,000 to \$49,999	Department Head	Policy # 2 – Approval Authority
\$50,000 or greater for Non-competitive type purchases	Council	Council as per Policy # 2 – Approval Authority

- (4) The Goods and/or Services shall be procured through a Purchase Order, a formal Contract or any other process as approved by the Treasurer.
- (5) All formal Contracts shall be in a form satisfactory to the County Solicitor.

## **POLICY # 12 - Cooperative Procurements**

### **SECTION 4.12**

- (1) The County may participate with other government bodies, public authorities, conservation authorities, municipalities, academia, schools, hospitals and not-for-profit organizations in cooperative acquisition ventures for Goods and/or Services when it is in the best interests of the County to do so. Such cooperative procurements shall require the prior written approval of the Treasurer.
- (2) The procurement procedures and policies of the entity initiating the procurement process will be followed.
- (3) The County will issue its own purchase order or contract for their respective Goods and/or Services to the successful vendor for all cooperative procurements.
- (4) In the absence of an applicable County Contract and with the approval of the Treasurer, the relevant Department may purchase Goods and/or Services using established contracts issued by other government bodies, public authorities, conservation authorities, municipalities, academia, schools, hospitals and not-for-profit organizations. For these contracts, the selection of the vendor must have been made through a competitive procurement process and the resulting contract must permit the County to purchase from that vendor under the same terms and conditions.
- (5) Where the Province of Ontario requires the County to meet a provincial standard for any Goods and/or Services, and has established a prequalified vendor of record list for such Goods and/or Services, the County may invite only those prequalified vendors to participate in the RFQ, RFT or RFP.

## **POLICY # 13 - Authority to Execute Contracts**

### **SECTION 4.13**

- (1) The Department Head in conjunction with the Treasury Department shall execute acquisition Contracts and all necessary associated documents on behalf of the County for all procurement awards under \$50,000 approved in accordance with Policy # 2 – Approval Authority. The Clerk and the Warden shall execute acquisition Contracts on behalf of the County for all procurement awards \$50,000 or greater approved in accordance with Policy # 2 – Approval Authority. The applicable Department Head shall be the Clerk and the Warden in the case of any corporate-wide Contract.
- (2) For all other Contracts that received Council approval, the County officials named in the Council resolution shall execute such Contracts on behalf of the County. Where County officials have not been named in the Council resolution, the Warden and Clerk shall execute such Contract.
- (3) The person(s) who have executed a Contract on behalf of the County in accordance with this Policy # 13 shall also have the authority to execute any documents for an assignment or corporate change request related to such Contract.
- (4) All Contracts shall be in a form satisfactory to the County Solicitor and shall contain content which is acceptable to the Client Department.
- (5) All Authorized Delegates will complete the *Notification of Signing Authority Form*, which shall not be effective until approved and executed by the Department Head or Treasurer, as the case may be, and forwarded to the Treasury Department for reference.



## POLICY # 14 - Standardization

### SECTION 4.14

- (1) The Department Head shall have the authority to negotiate with the original equipment manufacturers and licensed distributors of approved standardized products.
- (2) The Standards and Approved Products Committee shall be responsible to prepare an annual information report to Council outlining the rationale for any Standardization of Goods added to the County's Approved Products Listing, the number of Goods standardized and any standardized Good resulting in a non-competitive purchase.
- (3) Where a standardized Good can be procured from more than one vendor that Good shall not be considered a single source purchase.
- (4) Standardization Approval Summary Table

<b>Standardization Type</b>	<b>Total Cumulative Value (\$)</b>	<b>Duration of the Standard</b>	<b>Approval Required</b>	<b>Expiry</b>
Standardization does not result in a single source purchase.	Less than \$100,000	No more than 5 years	Treasurer or The Standards and Approved Products Committee*	At the conclusion of the contract term.
Standardization does not result in a single source purchase.	Less than \$100,000	Greater than 5 years	Council or The Standards and Approved Products Committee*	As approved by Council or The Standards and Approved Products Committee.
Standardization does not result in a single source purchase.	\$100,000 or greater	Any	Council or The Standards and Approved Products Committee*	As approved by Council or The Standards and Approved Products Committee.
Standard results in a single source purchase.	\$10,000 or greater	Any	Council or The Standards and Approved Products Committee*	As approved by Council or The Standards and Approved Products Committee.

\*Approvals made by The Standards and Approved Products Committee shall only be within the committee's mandate as approved by Council.

## **POLICY # 15 - Conflicts of Interest**

### **SECTION 4.15**

- (1) Employees of the County shall not have a pecuniary interest, either directly or indirectly, in any County Contract or in any other party to a Contract with the County for the supply of Goods and/or Services for which the County pays or is liable, directly or indirectly to pay unless such interest has been declared pursuant to the Code of Conduct for Employees Policy, as amended or replaced from time to time, and the employee otherwise complies with such policy.
- (2) In addition to complying with the Conflict of Interest subsection of the Code of Conduct for Employees Policy, employees of the County are required to declare any pecuniary interest, either direct or indirect, in writing to their Department Head with a copy to the Treasury Department indicating the specific nature of the conflict.
- (3) Members of Council are required to declare any pecuniary interest direct or indirect, and its general nature, which may result in a conflict of interest pursuant to the *Municipal Conflict of Interest Act* and the member of Council shall otherwise comply with that Act.
- (4) Any Contract with the County may be voided in which a member of Council or any employee of the County has an undeclared direct or indirect pecuniary interest.
- (5) All County employees, consultants and others participating in the development of the Specifications and/or evaluation for any Request for Tenders, Request for Prequalification and Request for Proposals will be required to complete and sign a *Conflict of Interest Form*.

## **POLICY # 16 - Dispute Resolution**

### **SECTION 4.16**

- (1) The County of Dufferin encourages the most open, competitive procurement processes and the objective and equitable treatment of all vendors.
- (2) Any Vendor that wishes to challenge or is otherwise aggrieved by a decision made by the County, its staff or Council under this policy shall provide a written complaint within five business days of the date of the award or other decision.
- (3) The Treasury Department in conjunction with the Department Head shall respond to the complaint within five days.
- (4) In the event the vendor is not satisfied with response provided, they can request a meeting with the Department Head and Treasurer. The vendor's request shall be in writing and shall provide a detailed statement of the grounds of the complaint, including copies of relevant documents, and identify the form of relief requested
- (5) If no resolution satisfactory to both parties has been achieved, the vendor will have three business days from the date of the meeting with the Department Head and Treasurer to make a formal written request to meet with the Department Head, Treasurer and CAO regarding the vendor's complaint. The Department Head, Treasurer and CAO will make the final decision regarding the vendor's complaint, which decision will be made in writing.

## **POLICY # 17 – Non-compliance with the Procurement Policy**

### **SECTION 4.17**

- (1) Subject to Policy # 2 - Approval Authority, the Treasurer in consultation with the Chief Administrative Officer will authorize the use of a *Non-Compliance with the Procurement Policy Form*, which outlines the circumstances behind a particular instance of non-compliance. This process is to be used when there is a violation of the Procurement Policy consisting of one or more of the following:
  - (a) the contracting of a vendor to provide Goods and/or Services, not in accordance with the requirements of the Procurement Policy;
  - (b) the receipt of an invoice by the County from a vendor under the Procurement Policy, for Goods and/or Services previously acquired outside the procurement process;
  - (c) where it can be proven that the actions or non-actions of an employee, or employee group results in the requirement to initiate a procurement process pursuant to Policy # 10 – Emergency Procurements or Policy # 11 – Non-competitive Procurements;
  - (d) splitting of purchases contrary to the Procurement Policy requirements;
  - (e) any and all other violations of the Procurement Policy.
  
- (2) Notwithstanding subsection (1) of this Policy # 17, an employee who fails to act in accordance with the provisions of the Procurement Policy, will be subject to appropriate disciplinary action up to and including termination of employment.

The Treasurer and the Department Head or CAO will review such violations (through the *Non-Compliance with the Procurement Policy Form*) and shall consult with the Human Resources Manager for consideration of any disciplinary action to be taken as appropriate.

For purchases under \$10,000, the Department Head can authorize the payment. Purchases over \$10,000 requires approval of the Chief Administrative Officer.

- (3) The Treasurer shall maintain a log of these procurements and report to the Chief Administrative Officer on a quarterly basis.

## **POLICY # 18 – In-House Bid Submissions**

### **SECTION 4.18**

- (1) In-house Bid submissions will be considered when contemplating a transfer of services from internal services to external services or vice versa.
- (2) The Department Head submitting an in-house Bid shall obtain Council approval prior to submitting such a Bid. The report to Council seeking such approval shall include as a minimum:
  - (a) the members of the in-house Bid submission team;
  - (a) which costs will be included in the Bid and how costs will be determined;  
and
  - (b) the rationale for submitting an in-house Bid.
- (3) The RFP or RFT documents to be utilized, as applicable, shall clearly indicate:
  - (a) an in-house Bid is being considered for the RFP/RFT; and
  - (b) any advantages that the in-house Bid will have over other bidders by virtue of it being an in-house Bid.
- (4) The integrity of the evaluation process will be maintained when evaluating an in-house Bid as follows:
  - (a) no member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services shall have any communications with a member of the evaluation team or an elected official concerning the subject RFP or RFT, as the case may be, except in accordance with the communication and any interview provisions contained in the applicable RFP/RFT;
  - (b) no member of the evaluation team or an elected official shall have any communications with a member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services, except in accordance with the communication and interview provisions contained in the applicable RFP/RFT. Or in the normal course of business not related to the Bid;

- (c) no member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services shall participate in the development of the subject RFP/RFT nor shall such persons have any communications with any person participating in the development of the subject RFP/RFT;
- (d) the same rules shall govern the submission of the in-house Bid as will apply to any other bidder, unless expressly provided otherwise in the RFP/RFT document; and
- (e) the evaluation of Bids shall be objective and the process shall avoid any unfair bias towards either the in-house or the external Bids.

## **POLICY # 19 – Review of the Procurement Policy**

### **SECTION 4.19**

- (1) The Treasurer shall submit to the Procurement Sub-Committee and to the appropriate standing committee of Council an annual report recommending any changes to the Procurement Policy 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.
- (2) All changes to the Procurement Policy require the approval of Council.
- (3) Changes to Procurement Procedures and Guidelines require the approval of the County's Treasurer.
- (4) A full Policy review shall take place every five years.

### **SECTION 5**

By-law 2012-26 is hereby repealed.

READ a first, second and third time and finally passed this 13th day of July 2017.

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Darren White, Warden



Pam Hillock, Clerk

## **SCHEDULE A – Statement of Ethics for Public Procurement**

The following ethical principles shall govern the conduct of every County employee and member of Council delegated with the authority to procure.

- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honour and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Keeps relevant County staff informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.

### **Responsibility to the County:**

- Follow the lawful instructions, by-law, policies and procedures of the County.
- Understand the authority granted by the County.
- Avoid activities which would compromise or give the perception of compromising the best interest of the County and the public.
- Reduce the potential for any chances of preferential treatment by actively promoting the concept of competition.
- Obtain the maximum benefit for funds spent as agents for the County.

### **Relationship with vendors:**

- Maintain and practice, to the highest degree possible, business ethics, professional courtesy and competence in all transactions.
- Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure.
- Refrain from showing favouritism or being influenced by vendors through the acceptance of gifts, gratuities, loans or favours.



- Adhere to and protect suppliers' business and legal rights to confidentiality for trade secrets, and other proprietary information.

**Relationship with the County:**

- Remain free of any and all interests and activities, which are or could be detrimental to or in conflict with the best interests of the County and the public.
- Refrain from dealing with Vendors where a County employee or member of Council has a significant personal or indirect financial interest.
- Exercise discretionary authority on behalf of the County and the public.
- Avoid acquiring interest or incurring obligations that could conflict with the interests of the County.

## **SCHEDULE B – Exemptions**

Items listed below are exempt from the requirements of the Procurement Policy, save and except for Policy # 2 - Approval Authority.

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

- (a) Insurance premiums.
- (b) Debt payments.
- (c) Purchase of investments. This exemption does not include any ancillary services.
- (d) Grants, loans and levies.
- (e) Licenses (for example, vehicle, elevators, radios).
- (f) Real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like.
- (g) Insurance claims, legal settlements and grievance settlements. This exemption does not apply to the procurement for Goods to be replaced.
- (h) Adjusting services for the investigation of liability and property claims.
- (i) Binding orders, judgments or decisions of an arbitrator, tribunal or court. Given that these payments are mandatory, approval from the Department Head which is funding the payment is required instead of the approvals set out in Policy # 2 – Approval Authority.
- (j) Refundable travel expenses.
- (k) Temporary staffing agencies and services.
- (l) Assessments and tools where positions and/or individuals are assessed for recruitment and selection purposes, including tools and assessments which would assist in the accommodation of individuals.
- (m) Payments required by Council approved compassionate programs.
- (n) Other County and employee related expenses, such as: memberships in professional organizations (professional dues), staff attendance at seminars, testing or examination fees, workshops, courses, training, trade shows or conferences. This shall not include any training specifically designed for the County.

## **(2) Professional Services**

- (a) Medical and Laboratory Professional Services.
- (b) Experts retained for the purposes of, or in contemplation of, litigation.
- (c) Confidential items (for example Forensic Audits).
- (d) Outside Legal Counsel where retained by the Chief Administrative Officer.
- (e) Mediators and Arbitrators.

## **(3) Special Services**

- (a) Providers of human services (including counselling, individual assessments, training, community support services, licensed child care centres, early years and family centres, transportation of children identified with special needs or having a therapeutic need to attend a licensed child care centre, Domiciliary Hostels Program, Long Term Care Facilities nursing, home care services, funeral services, dental services, interpreter and translation services, and hairdressing as part of County-approved programs and projects).
- (b) Accommodations provided as part of County-approved programs and projects for the homeless and others living in poverty.
- (c) Vouchers provided by Community Services as part of County-approved programs and projects.
- (d) Financial reviews conducted on a contingency basis for the purposes of recovering amounts paid and/or owed, such as tax recovery services.
- (e) Public/guest speakers, individuals or ensembles that offer creative content for presentation to others.

## **(4) Utility Billing**

- (a) Electricity.
- (b) Postal services, postage.
- (c) Water and Wastewater.
- (d) Fuel (Natural gas, furnace oil).
- (e) Communications, for example: voice and data network communications.

(f) The removal, relocation, identification or engineering related to utility infrastructure that exists on road allowances, right of ways and other County properties. This includes sub-surface and above-surface infrastructure.

(g) Railway companies related to removal, relocation, construction supervision (flagging) and maintenance.

**(5) Government agencies, regulatory bodies, licensing agencies, other public authorities and non-for-profit organizations accountable to the Ontario government and municipalities to which the County is required to remit to or pay a fee.**

**(a) Public Agencies, Special Interest Groups, and Aboriginal Peoples**

- where use of a 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 with or a policy concerning Aboriginal Peoples

**(6) Other**

(a) Antiques and artifacts (shops, sales, repairs, but not including restoration).

(b) Acquisition of art.

(c) Publications (including newspapers, periodicals, magazines or books), CDs, DVDs and all copyrighted material.

(d) Maintenance fees for software and computer hardware for information systems previously acquired.

(e) Goods for the purpose of retail sales (re-sale) by the County (not including items that bear the County of Dufferin logo or insignia). This exemption does not include food and beverage items.

(f) Media advertising, including trade shows.

(g) Venues (including food and beverage where off site catering is not permitted) for

banquets, meetings, events, receptions and training.

(h) Admission to tourism attractions and destinations for recreational and social programs.

(i) Real estate sale transactions.