



By-law 2017-8

A by-law to establish procurement, service and disposal regulations and policies

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**NOW THEREFORE THE COUNCIL OF THE CITY OF MARKHAM
ENACTS AS FOLLOWS:**

PART I: GENERAL

PURPOSE

The purpose of this By-law is to establish policies and regulations respecting the City's procurement activities, administrative procedures and approval authorities, including the award and execution of Contracts.

1. Definitions

1.1 In this By-law,

“Administrative Procedures” means the procedures established to carry out the requirements of this By-law;

“Bid” means the offer of a Bidder to furnish goods or services in response to a Quotation issued by the City;

“Bidder” means any individual, corporation or other person submitting a response to a Quotation issued by the City;

“Bid Opening Committee” means the City staff committee responsible for opening and recording results of publicly advertised Request for Tenders and Request for Proposals, which shall be comprised of:

- (a) Purchasing Department staff; and
- (b) Clerk Department staff.

“Bid Price” means the total price for the Work as specified in the Bid, excluding all applicable taxes;

“Bidding System” means the City’s online, web-based solution for issuing Quotations and/or receiving online Bid submissions and posting Bid results;

“Blanket Order” refers to a contract between the City and a Contractor to facilitate the procurement of repetitively used goods and services for a specified term;

“CAO” means the Chief Administrative Officer of The Corporation of the City of Markham, or Designate;

“City” means The Corporation of the City of Markham;

“Closing Time” means the date and time that all Bids must be received by the City as specified in the Quotation;

“Commissioner” means a person appointed by Council with administrative responsibilities for a group of City Departments;

“Conflict of Interest” refers to a situation in which private interests or personal considerations may affect City staff’s, Councillor’s, or Contractor’s judgment in acting in the best interest of the City. It includes, but is not limited to, using a staff position, confidential information or corporate time, material, or facilities for private gain or advancement, or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of

employee City staff's family, friends, or business associates;

“Consulting and Professional Services” means a service provided by architects, landscape architects, engineers, designers, urban designers, surveyors, planners, management and financial consultants, brokers, lawyers, and education and training and any other consulting and professional services rendered on behalf of the City;

“Contract” means a binding agreement in writing between two or more parties;

“Contract Award” means the notice in writing, issued by the City, that a Bidder has been selected as the Successful Bidder for the purposes of a Quotation;

“Contractor” means the Successful Bidder which has been awarded the Contract by the City for the Work;

“Cooperative Procurement” means the participation of two or more public agencies in a Quotation;

“Council” means the Council of The Corporation of the City of Markham;

“Designate” means the City staff member who may be appointed to act on behalf of an authority named in this By-law;

“Director” means a person holding a management position of Director within a City Department and includes the Treasurer, a General Manager, Fire Chief, Deputy Fire Chief, City Solicitor, City Architect, Chief Informational Officer, City Clerk and any title or position that are deemed to be equal to that of a Director as approved by the Human Resources Department;

“Electronic Bidding” means a method of issuing Quotations and/or receiving Bids where the process of issuing and/or receiving Bids by facsimile, email or internet is considered appropriate by the Purchasing Department;

“Emergency” means a situation where the immediate purchase of goods or services is essential to prevent serious delays, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City of Markham;

“Estimated Costs” means the estimated full cost of the goods or services, inclusive of all appropriate taxes and/or fees;

“Expression of Interest” means a focused market research tool used to determine Vendor interest in a proposed procurement, where the scope or specifications of the required goods or services may not be clearly defined;

“General Committee” means the finance Standing Committee of Council and any other name given to this committee;

“Goods and Services” means any one or more of: supplies, personal property, construction, maintenance and service contracts including Consulting and Professional Services;

“Instructions to Bidders” means the instructions given to prospective

Bidders in a Quotation issued by the City;

“Manager of Purchasing” means the Manager authorized by Council to act as agent for the City in accordance with the provisions of this By-law, or Designate;

“Personal Property” means any property not within the definition of Real Property;

“Pre-qualification Request” means a solicitation by the City for details on Vendors’ backgrounds, capabilities and resources, and the goods or services they are offering. Such information shall be used to pre-qualify Vendors to be invited to submit Bids or be included on a roster for future Quotations;

“Purchase Order” means a written offer to purchase goods and services or written acceptance where such an offer has been made on forms prescribed by the City;

“Quotation” means a Request for Tender, a Request for Quotation, a Request for Proposal, or Expression of Interest or any other document by which Bids are solicited by the City;

“Real Property” includes lands, buildings, tenements and any interest, estate or right or easement affecting same;

“Request for Proposal” means a request by the City to provide goods or services, when the goods or services cannot be clearly specified or are non-standard in nature, where alternatives to detailed specifications will be considered, or where the evaluation of criteria in addition to price is required by the City;

“Request for Quotation” means a request by the City for prices on specific goods or services from selected Vendors;

“Request for Tender” means a request by the City to provide clearly specified goods or services;

“Successful Bidder” means the Bidder which has been awarded the Contract by the City for the Work;

“Treasurer” means the Council appointed Treasurer of The Corporation of the City of Markham, or Designate;

“Unsolicited Proposal” means a written proposal submitted to the City on the initiative of a Vendor, for the purpose of obtaining a Contract with the City for the supply of goods or services;

“User Department” means a department within the City requiring goods and services to be purchased;

“Vendor” means any individual, corporation or other person interested in supplying goods or services to the City.

2. City Procurement Principles

2.1 The procurement principles of the City shall be as follows:

- (a) To operate a centralized procurement program to acquire, rent or lease the quality and quantity of goods and services required in the most cost effective and efficient manner;

- (b) To encourage open competitive bidding on the acquisition and disposal of all goods and services, where practical and appropriate;
 - (c) To consider total acquisition costs, including quality, service, operating, training and maintenance costs, warranty, payment terms, disposal value, disposal costs, and availability, rather than only the lowest tendered purchase price received;
 - (d) To not solicit in-house bids in competition with outside firms; and
 - (e) To ensure the efficient and timely delivery of goods and services.
- 2.2 The Code of Purchasing Ethics published by the National Institute of Government Purchasing Inc. and the Purchasing Management Association of Canada shall apply to all City staff involved in the purchase and disposal of goods and services.
- 2.3 When procuring goods and services, the City shall have regard to the environmental initiatives outlined by the “Build Markham’s Future Together” (BMFT) strategy plan as approved by Council.
- 2.4 The City of Markham Accessibility Plan developed in 2003 focuses on accessibility issues and the development of strategic actions to remove, where possible, and prevent barriers to access for people with disabilities. *The Ontarians with Disabilities Act, S.O. 2001, c. 32* and the City of Markham Accessibility Plan require that, when procuring goods and services, the City shall have regard to the accessibility for persons with disabilities to the goods and services. As such, the City is committed to accessibility principles.
- 2.5 The *Discriminatory Business Practices Act, R.S.O. 1990, c. D.12* has been established to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex, or geographical location of persons employed or engaging in business. Therefore, granting preference to local suppliers to supply goods and services to the City shall not be undertaken.
- 2.6 The unofficial Bid Price will be made available if disclosed during a Bid Opening Committee meeting, or by the Bidding System, or if provided to Council in a public report. Submission of Bids in response to a Quotation issued by the City are subject to the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56*.

3. General Conditions

- 3.1 The Manager of Purchasing, in consultation with the Director of the User Department, may place a Vendor’s name on a list of disqualified Vendors for a period of two (2) years on the basis of documented poor performance, non- performance, or Conflict of Interest. This information may be accumulated from within the City or through reference checks. A written notice of the decision will be provided to the Vendor by the Purchasing Department. From and after the delivery of such notice, the disqualified Vendor shall not be eligible to respond to any Quotation, and shall not be eligible to provide goods or services to the City for so long as the Vendor remains on the list of disqualified Vendors. After the two (2) year period referred to above, disqualified Vendors, who are otherwise in good standing with the City and eligible as Bidders, may request that their name be removed from the list. Removal of names from the list will be at the sole discretion of the Manger of Purchasing in

consultation with the Director of the User Department.

- 3.2 Where practical when procuring goods and services, specifications or scope of work should be included in the Quotation that are detailed but not brand specific to leave room for Bidders to provide alternatives in the event an equal or better product or method is available.
- 3.3 Notwithstanding Part I, Section 3.2, the City will, whenever possible, standardize the procurement of goods and services to permit:
 - (a) reduced number of goods and services required;
 - (b) economies of scale;
 - (c) reduced handling, training and storage costs;
 - (d) minimized maintenance costs;
 - (e) cooperative procurement activities; and
 - (f) reduced overall cost.
- 3.4 At the discretion of the Manager of Purchasing and the User Department, invitations to Requests for Tenders, Requests for Proposals, Pre-qualification Requests and Expressions of Interest may be sent to potential Bidders to ensure the best possible response.
- 3.5 When, in the opinion of the CAO, it would be in the best interests of the City, the City may participate with other levels of government or their agencies, or other public authorities in Cooperative Procurement.
- 3.6 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. When such services are required:
 - (a) the Purchasing Department must be advised;
 - (b) the Vendor will be considered a consultant and will not be permitted to make an offer for the supply of the goods and services, unless the CAO determines that it is in the best interests of the City to permit the Vendor to respond;
 - (c) a fee shall be paid; and
 - (d) the detailed specification shall become the property of the City of Markham and can be used in obtaining competitive Bids
- 3.7 Despite any term or condition to the contrary in a Quotation, the City reserves the right to require a Successful Bidder to enter into a Contract in a form satisfactory to the City Solicitor.
- 3.8 No Contract or purchase shall be divided into one or more contracts or purchases to avoid the requirements of this By-law.
- 3.9 No goods shall be received or services commenced without the use of a purchasing card, or Purchase Order or other Contract.
- 3.10 Where a series of Contracts which pertain to the same subject matter with the same Contractor in any twelve (12) month period combine to equal any of the monetary limits referred to in the section "Contract Award Approval Authority", the series of Contracts shall be deemed to be a single Contract for the purpose of this By-law.
- 3.11 Routine and repetitive goods and services will be combined and a Blanket Order issued according to the thresholds of the Contract Award Authority.

- 3.12 The Commissioner for the User Department, together with the Director of Human Resources, shall have delegated authority to execute Contracts that pertain to the hiring of full time or part time City staff.
- 3.13 This By-law does not apply to the sale, acquisition or disposal of Real Property, except in accordance with the provisions of Part II, Section 11.3(f).
- 3.14 No City staff or member of Council shall purchase or offer to purchase, on behalf of the City, any goods or services except in accordance with this By-law.
- 3.15 Where the City is pursuing a claim against a Vendor in contract, tort or negligence or where a Vendor is pursuing a similar claim against the City, the Vendor shall not be eligible to respond to any Quotation, unless the CAO determines that it is in the best interests of the City to permit the Vendor to respond.
- 3.16 It is mandatory for City staff and Council members to disclose to the City any Conflict of Interest relating to family members/relatives who may provide goods or services to the City. Reference shall be made to the City's "Employment of Related Individuals Policy" (as amended), for the "related individuals" definition.

4. Administrative Procedures

- 4.1 The Purchasing Department (and City staff authorized by procedures approved in accordance with Section 4.3 below) shall have the authority to issue Purchase Orders for goods and services, provided that proper authorization has been obtained in accordance with this By-law, including the "Contract Award Approval Authority" set out in Appendix A. Where such Purchase Order does not form part of the Contract, it shall so state and may be used for internal control purposes only.
- 4.2 It is the responsibility of all City staff to ensure that all requirements of this By-law are complied with.
- 4.3 The Treasurer and Manager of Purchasing shall have the authority to approve additional procedures to implement this By-law, including forms and Purchasing Department templates.
- 4.4 No City staff, or member of Council may submit a Bid in response to a Quotation issued by the City, or sell or provide goods or services to the City outside of their employment with the City.
- 4.5 No purchases for personal use or consumption shall be made by the City for members of Council or for City staff, except through programs which may, from time to time, be approved by Council.

PART II: METHODS OF PROCUREMENT

5. Request for Tenders (\$100,000 or greater)

- 5.1 Unless Vendors have been pre-qualified, all Request for Tenders for goods and services over \$100,000 in value will be advertised in a newspaper of general circulation or by electronic media or both.

5.2 All Request for Tenders for goods and services shall be issued by the Purchasing Department through the Bidding System, by email or thru pick up at the Contract Centre. Sealed Bids will be received and stamped by the City Clerk, and opened in public by the Bid Opening Committee at the time appointed in the Instructions to Bidders, or thru the Bidding System. Request for Tenders received after the stated Closing Time will be disqualified and returned unopened to the Bidder.

5.3 If Bids are submitted by email or to the Clerks Department, unofficial results of Bids will be read out and entered on the Summary of Bidders Sheet, and the Summary of Bidders Sheet will be initialed by all attending members of the Bid Opening Committee.

If Bids are submitted through the Bidding System, unofficial results of Bids will be published thru the Bidding System.

5.4 All Bids will be analyzed and tabulated by the Purchasing Department and the User Department, and the results may be submitted to the User Department for further analysis. Contract Awards are generally made to the lowest priced, compliant Bidder.

5.5 The City reserves the right not to accept the lowest or any Bid submitted, if such action is deemed to be in the best interests of the City.

5.6 The City shall not be required to award a Contract:

- (a) where only one Bid has been received as the result of a Request for Tender;
- (b) where the lowest, compliant Bid exceeds the budget or estimated cost of the goods or services; or
- (c) when all Bids received fail to comply with the mandatory requirements of the Request for Tender.

5.7 Where two or more compliant, identical lowest priced Bids have been received, the City shall determine the Successful Bidder by a coin toss conducted by the Manger of Purchasing, or Designate.

5.8 The City reserves the right to amend specifications and/or terms included in a Request for Tender up to the Closing Time.

6. Requests for Proposals (\$100,000 or greater)

6.1 Unless Vendors have been pre-qualified, all Requests for Proposals for goods and services over \$100,000 in value shall be advertised in a newspaper of general circulation or by electronic media or both.

6.2 Requests for Proposals may be called, instead of Request for Tenders, when the goods or services cannot be clearly specified or are non-standard in nature, where alternatives to detailed specifications will be considered, or where the evaluation of criteria in addition to price is required.

If Bids are submitted by email or to the Clerks Department, Bids will be opened for recording of Bid Prices, but Bid Prices will not be read out. If Bids are submitted through the Bidding System, Bidder names will be published thru the Bidding System.

6.3 Bids shall be evaluated by the Purchasing Department and

the User Department based on predetermined criteria. The criteria shall be determined by the User Department and the Purchasing Department prior to the issuance of the Quotation. The criteria may include, but are not limited to, product offering, past performance, quality of work or service, experience, reference checks and financial viability. Contract Awards are generally made to the highest ranking, compliant Bidder.

7. Request for Quotations (between \$5,001 and \$24,999)

- 7.1 The City may issue Requests for Quotations for the acquisition of goods and services estimated between \$5,001 and \$24,999 in value.
- 7.2 The User Department shall solicit Vendors and obtain a minimum of three (3) written quotations. Quotations will be received, opened, recorded and filed by the User Department. Awards will be made after analysis of the Bids by the User Department. A Purchase Order is required to complete any such transaction.
- 7.3 Notwithstanding the requirement in Section 7.2 above for a minimum of three (3) quotations, where the value of Consulting and Professional Services is estimated to be less than \$25,000, the appropriate Manager of the User Department may award a Contract for the services upon such terms and conditions approved by the Manager.

8. Request for Quotations (between \$25,000 and \$99,999)

- 8.1 The City may issue Requests for Quotations for the acquisition of goods and services estimated between \$25,001 and \$99,999 in value.
- 8.2 The User Department shall provide the Purchasing Department with a request containing the relevant specifications and approval authority by a Goods and Service Order or electronic requisition.
- 8.3 The Purchasing Department, with input from the User Department, shall solicit Vendors and obtain a minimum of three (3) written Bids. Bids will be received, opened, recorded and filed by the Purchasing Department. Contract Awards will be made after analysis of the Bids by the Purchasing Department and the User Department.

9. Expression of Interest

- 9.1 All Expressions of Interest for the City shall be advertised in a newspaper of general circulation, or by electronic media, or by solicitation.
- 9.2 As a result of responses to Expressions of Interest, the City may redefine the required product or service, or compile a list of pre-qualified Vendors according to criteria that may include, but are not limited to, product offering, past performance, quality of work or service, reference checks and financial viability.
- 9.3 Proposals shall be reviewed by the Purchasing Department and the User Department.
- 9.4 Based on responses received from the Expression of Interest, the City shall consider three (3) options.
Option 1 is to take no further action.
Option 2 is to issue a Quotation, and invite the Expression of Interest respondents to submit a Bid to the City. Evaluation will be based on

pre-established criteria included in the Quotation.

Option 3 is to negotiate with one preferred Expression of Interest respondent to establish a Contract for this project. If such negotiations do not lead to a Contract, the City may proceed with negotiations with another Expression of Interest respondent or issue a Quotation as per Option 2.

10. Pre-qualification Request

- 10.1 A Pre-qualification Request is used to ascertain qualified Vendors who may be interested in submitting a Bid for the supply of goods or services.
- 10.2 The City may compile a list of qualified Vendors whenever it is desirable to pre-qualify Vendors according to established criteria. The criteria may include, but are not limited to, product offering, past performance, quality of work or service, reference checks and financial viability.
- 10.3 In order to compile a list of qualified Vendors, the Purchasing Department, with input from the User Department, shall invite Vendors to apply for inclusion in such list by advertisement in a newspaper of general circulation or by electronic media or both.
- 10.4 Submissions shall be reviewed by the Purchasing Department and the User Department in accordance with established criteria, and a list of qualified Vendors is then compiled.
- 10.5 The list of pre-qualified Vendors may be used for one particular purchase, or be included on a roster to be used for future purchases. If the pre-qualification request is created with the intent of creating a roster it must be clearly defined in the Pre-qualification Request.
- 10.6 Where a pre-qualification process is being recommended, approval by the applicable Commissioner is required before proceeding.
- 10.7 The Purchasing Department shall review the roster of pre-qualified Vendors every two (2) years for continued eligibility.
- 10.8 Vendors wishing to be included on an existing roster may issue a proposal to the Purchasing Department. The submission shall be reviewed by the Purchasing Department and User Department using the same criteria used in the original Pre-qualification Request.

11. Non-Competitive Procurement

- 11.1 When any of the following conditions apply, the Treasurer and/or the Manager of Purchasing may, in consultation with the Director of the User Department, negotiate a Contract for the supply of goods and services without a competitive process, which shall be submitted to the applicable Commissioner or the CAO for approval. Final approval shall be in accordance with the "Non-Competitive Contract Award Approval Authority" outlined below:

Non-Competitive Contract Award Approval Authority

| <u>Contract Award Amount</u> | <u>Approval Authority</u> |
|------------------------------|---------------------------|
| >\$5k and <\$50k | Commissioner |
| >\$50k and <\$350k | CAO |
| >\$350k | Council |

- (a) when the Manager of Purchasing and the Director of the User

Department determine that goods are in short supply due to market conditions;

- (b) where there is only one source of supply for the goods to be purchased;
- (c) when the extension of an existing Contract would prove more cost-effective or beneficial;
- (d) where a project is privately funded but is administered by the City;
- (e) where the City is acquiring specialized vehicles or equipment, such as firefighting vehicles or equipment or buses, in which case the sources of supply may be identified based on technical specifications prepared by the User Department. The Manager of Purchasing may negotiate purchases based on such specifications in consultation with the User Department;
- (f) where, for any reason, a Quotation issued by the City does not result in a successful Contract Award;
- (g) where it is in the City's best interest not to solicit a competitive Bid;
- (h) where it is necessary or in the best interests of the City to acquire non-standard items or Consulting and Professional Services from a preferred supplier or from a supplier who has a proven track record with the City in terms of pricing, quality and service.

11.2 Request for Tenders, Requests for Proposals and Requests for Quotations may not be required for goods and services to be provided by any of the following:

- (a) Hydro Electric Corporations;
- (b) Utilities;
- (c) Provincial and federal government agencies or Crown corporations;
- (d) Municipalities and special purpose bodies within the City when similar goods or services are not available from any other source; and
- (e) Toronto and Region Conservation Authority (TRCA).

Final approval shall be in accordance with the "Non-Competitive Contract Award Approval Authority" outlined below:

Non-Competitive Contract Award Approval Authority

| <u>Contract Award Amount</u> | <u>Approval Authority</u> |
|------------------------------|----------------------------------|
| >\$5k and <\$350k | Director or Commissioner (a & b) |
| >\$5k and <\$350k | CAO (a – e) |
| >\$350k | Council (a – e) |

11.3 Notwithstanding any other provision of this By-law, the following provisions shall apply in case of an emergency:

- (a) wherever feasible, the Manager of Purchasing, upon the recommendation of the Director of the User Department, shall secure by the most open procedure at the lowest obtainable price and consistent with service requirements, any goods or services required up to the amount of \$350,000;
- (b) in the absence of the Manager of Purchasing, the Commissioner and Director of the User Department may purchase goods and services and obtain a Purchase Order number from the Purchasing Department the following business day;
- (c) when an emergency purchase has been made and the

- amount of the purchase exceeds \$25,000 but is less than \$350,000, the Commissioner of Corporate Services and the CAO shall be advised forthwith in writing by the User Department;
- (d) any procurement of goods and services with a value over \$350,000 shall be pre-approved by the CAO;
 - (e) if an Emergency Purchase has been made and the amount of the purchase exceeds \$350,000, a written report shall be submitted by the Director of the User Department to the next meeting of General Committee, explaining the action taken and reason(s) therefore;
 - (f) when Real Property is purchased under emergency conditions, the purchase shall be authorized by the CAO.

PART III: CONTRACT AWARD APPROVAL AUTHORITY

For the purpose of this section, a Contract shall be defined as any contract or agreement expressed in writing, including a Purchase Order or a contract arising out of the acceptance of a Bid.

12. Amount not exceeding \$99,999

- (a) Amount less than \$5,000

Purchase Orders or corporate purchase cards may be used by Departments for purchases of goods and services with a value less than \$5,000. The procurement of goods and services under \$5,000 may be made without the use of a competitive process. Where the amount of the Contract contains a maximum upset limit of \$4,999 or less, the Contract Award shall be approved by User Department staff (as authorized by the Commissioner), as per the "Contract Award Approval Authority" set out in Appendix A.

- (b) \$5,000 or greater, but less than \$25,000

A Purchase Order shall be used to complete such transactions. If the User Department originates the quotation process, that Department is responsible for keeping the quotes on file. Where the amount of the Contract contains a maximum upset limit of \$24,999 or less, the Contract Award shall be approved by the Manager of the User Department, as per the "Contract Award Approval Authority" set out in Appendix A.

- (c) \$25,000 or greater, but less than \$100,000

A Purchase Order shall be used to complete such transactions. Where the amount of the Contract contains a maximum upset limit of \$99,999 or less, , the Contract Award shall be approved by the Director or Commissioner of the User Department, as per the "Contract Award Approval Authority" set out in Appendix A.

13. \$100,000 or greater, but less than \$350,000

- (a) Where the amount of the Contract contains a maximum upset limit between \$100,000 and \$349,999, the Contract Award shall be approved by the Commissioner of the User Department or the CAO, as per the "Contract Award Approval Authority" set out in Appendix A.
- (b) Contract Award reports shall be completed and properly authorized and kept on file within the Purchasing Department. Purchasing

Department staff will issue a Purchase Order upon receipt of the approved Contract Award. The Purchasing Department shall be responsible for issuing all letters of Contract Award.

14. \$350,000 or greater

Where the amount of the Contract contains a maximum upset limit of \$350,000 or more, the Contract Award shall be approved by the CAO or the Mayor and Clerk, as per the “Contract Award Approval Authority” set out in Appendix A.

15. Reporting Requirements

The Treasurer, on a monthly basis, shall advise the General Committee of all Contract Awards awarded by City staff that are greater than \$50,000.

16. Miscellaneous

- (a) Where a procured item generates revenue, the value of the item, for the purposes of the thresholds in the “Contract Award Approval Authority” set out in Appendix A, shall be determined by the total acquisition cost exclusive of the potential revenue generation.
- (b) All procurement activities shall be governed by the “Expenditure Control Policy”, as amended by the CAO from time to time.
- (c) Contract Award Process – Election Year and/or Recess Periods
 - (i) for Council recess periods during any period of more than twenty-one (21) days in which there is no scheduled Council meeting, the CAO and Treasurer shall have the authority to award Contracts that cannot, in the opinion of the CAO, be delayed until the next regular meetings of the General Committee and Council. A written report shall be submitted by the Treasurer at the next meeting of the General Committee detailing all Contract Awards made during any recess period.
- (d) A summary of the approvals required, Quotation and Contract types and the responsibility for issuing Quotations for various Contract values can be found in Appendix A, “Contract Award Approval Authority”.

PART IV: DEPOSIT REQUIREMENT

- 17.** If required by the Quotation, Bidders shall provide a Bid deposit by submitting cash, certified cheque, letter of credit, or a Bid bond in the form and amount as set out in the Quotation.
- 18.** If Bids are submitted through the Clerks Department, Bid deposits will be held by the City Clerk to ensure that the Bidder will enter into a formal Contract with the City and, when the Bidder does so, the Bid deposit may be picked up by the Bidder or returned by registered mail. The Bid deposit of all Bidders, except those of the two (2) lowest priced or highest ranked Bidders (as applicable), will be returned by the City Clerk within fifteen (15) business days after the Bid opening date. The Bid deposits of the two (2) lowest priced or highest ranked Bidders (as applicable) will be returned by the City Clerk within ten (10) business days after the Contract Award, unless the User Department or the Purchasing Department advises that the Bid deposit will be retained for a longer period of time.

If Bids are submitted through the Bidding System, Bidders should refer to the e-bonding information on the Surety Association of Canada’s website,

including an industry checklist which digital bonds provided should meet. All digital Bid bonds must be authenticated. If the digital Bid bond submitted does not pass the City's verification process, the Bidder will be given five (5) business days to remedy the verification to the City's satisfaction, or the Bid shall be rejected.

PART V: DISPOSAL OF PERSONAL PROPERTY

19. Any personal property belonging to the City and declared surplus by the Director of the User Department shall be disposed of only by means of public auction, Quotation, or donation after approval has been received from the CAO or the Treasurer, provided that any usable equipment or material has first been offered to other City Departments.
20. The sale of any personal property by Quotation shall be carried out by the Manager of Purchasing in consultation with the Director of the User Department. Where it is estimated that the value of the personal property exceeds \$100,000, a report recommending the sale shall be submitted to General Committee and Council for approval.
21. If it is determined that a higher return, net of disposal costs, can be achieved by sale of obsolete or surplus goods to the original Vendor or Vendors in that line of business, the Manager of Purchasing shall sell such goods at the highest return after first obtaining the approval of the CAO or Treasurer.
22. A reserve price may be established, and:
 - (a) in case of disposal by Quotation, such reserve price shall be published and disclosed at Bid opening;
 - (b) in the case of public auction or quotation, such reserve price shall be used as an internal estimate and not disclosed.
23. No City staff or member of Council shall bid on the sale of goods except those sold by public auction.
24. No City staff working at an auction of City property, or having responsibility for sending items to such auction, may bid on any items at such auction.
25. Where personal property has been declared surplus by the User Department, and has been offered to other User Departments without acceptance and the Commissioner of the User Department proposes to donate the items to a community interest or not-for-profit organization, approval shall be obtained from the CAO or Treasurer prior to such donation.

PART VI: GENERAL

26. This By-law shall be reviewed every five (5) years to evaluate its effectiveness.

Interpretation

27. Words imparting the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the reverse.
28. A word interpreted in the singular number has a corresponding meaning when used in the plural.
29. In the absence of, or where authorized by, the Manager of Purchasing, a

buyer appointed in the Purchasing Department shall act as the authorized Designate.

30. The Treasurer or Designate may assume, at any time, any of the authorities, responsibilities and duties imposed upon the Manager of Purchasing under this By- law.
31. The responsibility of any City staff referred to in this By-law may be temporarily assumed by their Designate.

PART VII: CONTRACT AWARD APPROVAL AUTHORITY - WITHIN CRITERIA

32. The following criteria must be met to approve Contract Awards in accordance with the “Contract Award Approval Authority – Within Criteria” set out in Appendix A:
 - (a) The Contract Award is to the lowest priced or highest ranked (as applicable), compliant Bidder.
 - (b) The expenses relating to the goods/ services being procured are included in the budget (Operating/Capital).
 - (c) The Contract Award is within the approved budget.
 - (d)
 - (e) The term of the Contract is for a maximum of four (4) years.
 - (f) There is no litigation between the Successful Bidder and the City at the time of Contract Award.
 - (g) There is no disqualified Bidder (which disqualified Bidder is also the lowest priced or highest ranked Bidder (as applicable) pursuant to the Quotation process) at the time of Contract Award.

PART VIII: CONTRACT TERMINATION APPROVAL AUTHORITY

33. Contracts awarded by the City may be terminated by the Purchasing Department at the request of the User Department for the non-performance or non-satisfactory performance of a Contractor or for any other reason deemed to be in the best interests of the City.

The Purchasing Department shall first obtain approval from the Legal Department before terminating the Contract. The final approval authority to terminate the Contract shall be as follows:

| <u>Contract Award Amount</u> | <u>Contract Termination Authority</u> |
|------------------------------|---------------------------------------|
| >\$5k - <\$25 | Director |
| >\$25 - <\$100 | Commissioner |
| >\$100 - <\$350 | CAO |
| >\$350 | Council |

PART IX: CONTRACT EXECUTION AUTHORITY

34. The CAO, the Commissioner of the User Department, and/or the Manager of Purchasing shall have the delegated authority to execute Contracts arising out of Contract Awards, approved in accordance with the provisions of this By-law, with a contractual value <\$350,000.

The Mayor and Clerk shall have the delegated authority to execute Contracts arising out of Contract Awards, approved in accordance with the provisions of this By-law, with a contractual value >\$350,000.

PART X: UNSOLICITED PROPOSALS

- 35.** All Unsolicited Proposals received by the City shall be directed to the Manager of Purchasing, who will act as the sole point of contact for Vendors.

The City's "Unsolicited Proposals Policy" (as amended) shall apply to all Unsolicited Proposals received by the City, by its staff and/or elected officials.

Repeal

- 36.** City of Markham By-law No 2004-341, as amended, is hereby repealed in its entirety.

Read a first, second, and third time and passed on March 21, 2017.

"Kimberley Kitteringham"

Kimberley Kitteringham
City Clerk

"Frank Scarpitti"

Frank Scarpitti
Mayor

APPENDIX A: CONTRACT AWARD APPROVAL AUTHORITY

| Dollar Threshold | -Quotation Type - Contract Type | Quotation issued by | Approval Authority - Within Criteria | Approval Authority - Outside Criteria |
|---|--|--|---|---|
| <\$5,000 | -No formal Quotation required -Purchasing Card, or Purchase Order | User Department | Approved by the User Department (as authorized by the Commissioner) | Approved by the User Department (as authorized by the Commissioner) |
| \$5,000 or greater, but less than \$25,000 | -Three Request for Quotations -Purchase Order | User Department or Purchasing Department | Manager | Manager |
| \$25,000 or greater but less than \$100,000 | -Three Request for Quotations -Purchase Order | Purchasing Department | Director | Director up to \$50k Commissioner \$50 - \$100k |
| \$100,000 or greater, but less than \$350,000 | -Request for Tender -Purchase Order | Purchasing Department | Commissioner | CAO |
| \$100,000 or Greater, but less than \$350,000 | -Request for Proposal -Purchase Order | Purchasing Department | CAO | CAO |
| \$350,000 or greater | -Request for Tender - Purchase Order | Purchasing Department | CAO | Council |
| \$350,000 or greater | -Request for Proposal -Purchase Order | Purchasing Department | Council | Council |

Reference should be made to Part II, Section 11 for the purposes of “Non-Competitive Contract Award Approval Authority”.