

**COUNTY OF ELGIN**

**By-Law No. 13-19**

**“BEING A BY-LAW TO ADOPT A POLICY FOR THE PROCUREMENT OF GOODS**

**AND SERVICES FOR THE CORPORATION OF THE COUNTY OF ELGIN AND TO**

**AMEND BY-LAW NO. 05-10”**

WHEREAS pursuant to Section 271(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, a municipality shall adopt policies with respect to its procurement of goods and services; and

WHEREAS Council did previously pass By-Law No. 05-10 which standardized procedures to ensure fair and equitable practices for the procurement of all County goods and services; and

WHEREAS, pursuant to Section 271(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, it is necessary to amend Elgin County’s procurement procedures in accordance with legislation.

NOW THEREFORE the Municipal Council of the Corporation of the County of Elgin enacts as follows:

1. THAT the County of Elgin Procurement Policy, attached as Schedule “A”, be and is hereby authorized as the standard to be followed for the procurement of all goods and services for the County of Elgin.
2. THAT By-Law No. 05-10 be amended.
3. THAT this By-Law shall come into force and take effect upon its passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 24<sup>TH</sup> DAY OF SEPTEMBER 2013.

---

Mark G. McDonald,  
Chief Administrative Officer

---

Cameron McWilliam,  
Warden.

**SCHEDULE "A"**  
**By-Law No. 13-19**  
**CORPORATION OF THE COUNTY OF ELGIN**  
**PROCUREMENT POLICY**

**1.0 OBJECTIVE**

- 1.1 This policy outlines the processes to be followed in order to obtain the best value when purchasing goods, or contracting services for the County of Elgin. The guiding principle is that procurement decisions will be made using a competitive process that is open, honest, fair and impartial.
- 1.2 The Procurement Policy will promote and maintain the integrity of the purchasing process and protect Council, vendors and staff involved in the process by providing clear direction and accountabilities. The procedures described in this Policy shall be followed to make a contract award or to make a recommendation of a contract to County Council.
- 1.3 The Council of the Corporation of the County of Elgin recognizes its responsibility for reviewing and updating the existing Purchasing Policy to ensure compliance with respect to The Municipal Act, 2001, Part VI, Section 271, as amended.

**2.0 PURCHASING RESPONSIBILITIES/AUTHORITY**

- 2.1 To protect Council and the integrity of the Procurement process, the procurement process will be free from political influence or interference. Council will appoint staff to ensure the procurement process remains open, fair and transparent.
- 2.2 County Council has ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. Payment for any item that has not been authorized by Council through budget appropriation or specific resolution will not be permitted. This purchasing policy provides guidelines outlining how spending authority is to be used. Levels of contract approval authority are also summarized in Appendix "A".
- 2.3 Budget approvals by Council, of capital works and operating expenditures, shall constitute authorization for any purchase of materials and services necessary to carry out work within the approved cost of an approved project, provided such purchases are made in accordance with this Procurement Policy. The requisitioning Department, in conjunction with the Purchasing Coordinator, will ensure that the Goods and Services are properly approved and that funds are available.
- 2.4 Where expenditures estimates approved in the budget have been subject to Quotations, Tenders or Request for Proposals which subsequently quote an amount greater than the estimated expenditure for that item, notice of a staff report regarding such amendment to the budget shall be included in the Report to Council.
- 2.5 New projects that have not been included in the annual budget shall be detailed in a staff report regarding amendment to the budget shall be included in a Report to Council.
- 2.6 Normal operating costs incurred prior to the adoption of the annual budget shall not require approval of such expenditures and shall be deemed ratified upon the adoption of the annual budget.

- 2.7 It is the responsibility of the user Department to enforce any terms, conditions and specifications from the award of any Contract resulting from the purchasing process. Where terms, conditions or specifications are not being adhered to, the user Department may request the Purchasing Coordinator to contact the supplier and attempt to negotiate to have said deficiencies corrected.
- 2.8 Prior to Council's approval of the current Budget a Department may incur normal operating expenditures up to 40% of the previous year's Budget. Directors will have the authority to solicit bids prior to the approval of Council.
- 2.9 Resolutions approving budget amendments, capital expenditures or special appropriations shall contain purpose of expenditure, cost estimates or expenditure limitation, and the fund in which an appropriation has been provided.
- 2.10 The Director may appoint a Purchasing Designate to exercise any or all responsibilities assigned in this policy.
- 2.11 The signatures of the Warden and Chief Administrative Officer, when legally required, are necessary on all Agreements to purchase, lease or Contract for Goods or Services.
- 2.12 During the public procurement process, in-house bids will not be considered.
- 2.13 The Director of Financial Services may review departmental purchases on an ongoing basis to review the effectiveness and integrity of the process and policy adherence. This Policy will be reviewed and revised on a periodic basis. It is anticipated that reviews will be conducted every five years or more frequently as required.
- 2.14 Goods and Services that are not subject to this By-Law are listed in "Appendix B".
- 2.15 For bids valued at \$50,000 or less, the Director may award a contract provided that Financial Services is in receipt of a Quotation Request Form, the product or service is contained within the approved budget and the requirements of the Procurement Policy are met. Guidelines/Goals to assist Directors or their designate who choose to exercise this authority are included in "Appendix E".
- 2.16 Despite any other provision of this Policy, the following contracts are subject to County Council approval;
  - i. any contract requiring approval from the Ontario Municipal Board,
  - ii. any contract prescribed by Statute to be made by Council,
  - iii. where the cost amount proposed for acceptance is 10% greater than the County Council approved budget for that expenditure or where the expenditure would result in insufficient remaining funds in the project budget to complete the project as budgeted,
  - iv. where the net revenue amount proposed for acceptance is lower than the County Council approved budget,
  - v. where a substantive objection emanating from the bid solicitation has been filed with a Director,
  - vi. where a major irregularity precludes the award of a tender to the supplier submitting the lowest bid.

### **3.0 METHODS OF PROCUREMENT**

#### **3.1 THE ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (AODA)**

- 3.1 (1) In deciding to purchase goods or services through the procurement process for the use of itself, its employees or the public, County Council, to the extent possible, shall have regard to the accessibility for persons with disabilities to the goods or services. (Ontario Regulation 191/11).

#### **3.2 ENVIRONMENTAL CONSIDERATIONS**

- 3.2 (1) In order to contribute to waste reduction and to increase the development and awareness of environmentally sound purchasing, acquisitions of goods and services, specifications will provide for expanded use of durable products, reusable products and products (including those used in services) that contain the minimum level of post consumer waste and/or maximum level of recyclable content without significantly affecting the intended use of the product or service.

#### **3.3 LOW DOLLAR VALUE PROCUREMENTS (Up to \$15,000)**

- 3.3 (1) Procurements up to \$15,000 shall be considered low dollar value procurements.
- 3.3 (2) All low dollar value procurements shall utilize applicable County contracts and shall otherwise be in accordance with this policy.
- 3.3 (3) The Director may delegate approval authority to their staff for low dollar value procurements. It is the responsibility of the respective Director to ensure that the Procurement Policy is adhered to.
- 3.3 (4) All information on low dollar value procurements must be documented and maintained on file.
- 3.3 (5) Low dollar value procurements do not require a Request for Quotation (RFQ), Request for Proposal (RFP) or Request for Tender (RFT). Obtaining competitive quotes is considered a good business practice and should be exercised.
- 3.3 (6) Purchasing may conduct reviews to ensure the requirements of this section and all other applicable sections of this Policy have been met.

#### **3.4 REQUEST FOR QUOTATION/TENDER**

- 3.4 (1) For goods and services for estimated expenditures **greater than \$15,000** the Director or designate **in consultation** with the Director of Financial Services or designate shall be authorized to make purchases of goods and services provided:
- i. the requirement can be fully defined; and,
  - ii. best value for the County can be achieved by an award selection made on the basis of the lowest compliant bid that meets all terms, conditions and specifications,
  - iii. The Director or any employee exercising delegated authority approval shall provide Purchasing in writing the relevant specifications, budget authorization, terms and conditions for the purchase of the good, services or construction,
  - iv. At least three (3) written bids must be obtained from three (3) separate potential suppliers to ensure a more competitive process. If staff has exhausted all efforts to obtain three (3) bids and can support this with documented evidence, a minimum of two (2) written bids is acceptable,
  - v. A "No Bid" response shall **not** be considered a valid bid,
  - vi. The Director or any employee exercising delegated authority approval **AND** the Purchasing Coordinator must **jointly** approve the award,
  - vii. The department shall be responsible to review the competitive bid and verify that all terms, conditions and specifications of the bid are met,

- viii. The County reserves the right in its absolute sole discretion to accept or reject any submission,
- ix. Purchasing may conduct reviews to ensure the requirements of this section and all other applicable sections of this Policy have been met.

**3.5 INFORMAL QUOTATION (Greater than \$15,000 but not greater than \$50,000)**

- i. Bid submissions do not have to be sealed,
- ii. Specifications (as applicable) can be issued and quotes can be received by e-mail and/or fax transmission,
- iii. Bids must be submitted to Financial Services Department at a specified location on a specified weekday at a specified time,
- iv. When the compliant low bid exceeds the approved budget appropriation by more than 10%, the Director or designate shall submit a report to Council for direction.

**3.6 FORMAL QUOTATION (RFQ) (Greater than \$50,000 but not greater than \$100,000)**

- i. Bid forms to be provided to Bidders in written format and must close using a formal sealed bid process,
- ii. When the preferred Quotation exceeds the approved budget for a specific project, the Director shall submit a report to Council for direction.

**3.7 REQUEST FOR TENDER (RFT) (Greater than \$100,000)**

For goods and services for estimated expenditures **greater than \$100,000** the Director or designate and the Director of Finance or designate shall be authorized to solicit tenders and County Council may award such Tenders provided:

- i. Tender documents are to be provided to Bidders in written format and must close using a formal sealed bid process,
- ii. Bids must be submitted to Financial Services at a specified location on a specified weekday at a specified time,
- iii. The Financial Services Department shall be responsible for arranging for the public opening of the Tender Bids at the time and date specified by the tender call. There shall be in attendance at that time a minimum of:

The Director of Financial Services or designate  
The Director of the issuing department or designate

- iv. The Financial Services Department shall forward to the issuing Department a summary of the bids subject to review by the Director,
- v. The project is specifically included within the approved budget and the total submitted price does not exceed the approved budget allocation for the project,
- vi. With respect to all reports initiated for tenders, there shall be a recommendation report to County Council containing the sources of financing, allocation of revenues, and other financial commentary as considered appropriate.

**3.8 REQUESTS FOR PROPOSALS (RFP)**

3.8 (1) The Request for Proposal procedure shall be used where:

- i. The requirement is best described in a general performance specification,
- ii. Innovative solutions are sought,
- iii. To achieve best value, the award selection will be made on an evaluated point per item or other method involving a combination of mandatory and desirable requirements.

- 3.8 (2) Awards under the RFP process require the following approval:
- i. Directors or any employee exercising delegated authority approval **and** the Purchasing Coordinator must **jointly** approve and award the RFP for purchases **up to \$50,000**,
  - ii. County Council must approve and award the RFP for purchases **greater than \$50,000**.
- 3.8 (3) The RFP process is a competitive method of procurement that may or may not include supplier pre-qualification.
- 3.8 (4) A Request for Information or a Request for Qualifications may be issued in advance of an RFP to assist in the development of a more definitive set of terms and conditions, scope of work/service and the selection of qualified suppliers.
- 3.8 (5) A Request for Information and a Request for Qualifications shall follow the same award approvals as an RFP, if applicable.
- 3.8 (6) Purchasing shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation method for use in an RFP. This may include but is not limited to factors such as qualifications and experience, strategy, approach, methodology, scheduling and past performance, facilities, equipment, pricing, life cycle costing, standardization of product and aspects that would support environmental procurement.
- 3.8 (7) Directors or any employee exercising delegated authority approval shall identify appropriate evaluation criteria from the list maintained by Purchasing for use in an RFP but are not limited to criteria from the list. Cost will always be included as a significant factor, as best value includes but is not limited to quality and cost.
- 3.8 (8) The Director or any employee exercising delegated authority approval shall provide to Purchasing in writing the budget authorization, approval authority, terms of reference and evaluation criteria to be applied in evaluating the proposals submitted.
- 3.8 (9) Purchasing will be the lead in the RFP process. A selection committee will be formed with a minimum of three evaluators and be comprised of at least one representative from the client department and one representative from the Department and the Director of Financial Services or designate shall review all proposals 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. Purchasing may or may not participate in the scoring of the proposals.
- 3.8 (10) During the proposal process all communication with bidders shall be through Purchasing.
- 3.8 (11) Financial Services Department shall forward to the Director an evaluation summary of the procurement, as well as the Evaluation Committee's recommendation for award of contract to the proponent meeting all mandatory requirements and providing best value as stipulated in the RFP. Purchasing is responsible for documenting the determination of best value. The criteria and analysis to determine best value will be included (if applicable) in the report to County Council.
- 3.8(12) With respect to all reports initiated for the RFP, a report on the sources of financing, allocation of revenues, and other financial commentary as considered appropriate shall be prepared.
- 3.8 (13) Reporting will not include summaries of bids, as this information will remain confidential. Any disclosure of information shall be made by the appropriate officer in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, (R.S.O. 1990), as amended.

3.8 (14) Unsuccessful proponents may, upon request, attend a debriefing session with Purchasing to review the competitive bid. Any discussion relating to any submissions other than of the proponent will be as required with the Director of Financial Services or designate as well as the Director to review their bid submission. Discussions relating to any bid submissions other than that of the proponent present will be strictly prohibited. This debriefing session is intended to provide general feedback regarding the proponent's rating on various criteria in order to allow the proponent to understand where future improvements might be applicable.

3.8 (15) Purchasing shall be responsible for arranging for a public announcement of proponents who submitted a proposal at a time and date outlined in the RFP document. There shall be in attendance at that time:

Purchasing or delegate; and  
At least one other representative of Financial Services.

3.8 (16) The County reserves the right at its sole discretion to accept or reject any submission.

**3.9 NON-COMPETITIVE PURCHASES**  
**(Blanket Contract Purchases, Emergency, Sole Source, Single Source)**

3.9 (1) The requirement for a competitive bid process for the selection of a supplier for goods, services and construction (except for Emergencies) may be waived under joint authority of the appropriate Director and Director of Finance and replaced with direct negotiations by the Director (or delegate) and Purchasing under the following circumstances;

3.9 (2) The procurement qualifies as a Blanket Order Purchase, Sole Source or Single Source purchase.

3.9 (3) **Blanket Contract Purchases**

A Blanket Order may be used where:

- i. one or more department repetitively order the same goods or services and the actual demand is not known in advance,
- ii. a need is anticipated for a range of goods and services for a specific purpose, but the actual demand is not known at the outset, and delivery is to be made when a requirement arises,
- iii. The Purchasing Coordinator shall establish and maintain Blanket Order Contracts that define source and price where available with selected suppliers for all frequently used goods or services,
- iv. Blanket Orders may be issued as the result of a bid process such as Request for Quotation, Request for Tender, Request for Proposal and from Co-operative Purchasing consortium,
- v. To establish prices and select sources, the Director in consultation with the Purchasing Coordinator shall employ the provisions contained in this Policy for the acquisition of goods, services, labour, materials and construction,
- vi. More than one supplier may be selected where it is in the best interest of the County and the bid solicitation allows for more than one,
- vii. Where procurement action is initiated by a department for frequently used goods or services, it is to be made with the supplier or suppliers listed in the Blanket Order Contract,
- viii. In a Request for Blanket Order, the expected quantity of the specified goods or services to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the extent possible, on previous usage adjusted for any known factors that may change said usage,
- ix. Blanket Orders shall be issued for a specific time period with all ordering departments responsible for maintaining purchases within budget allocations.

### **3.9 (4) Procurement in Emergencies**

An "Emergency" includes immediate threat to:

- i. Public health,
- ii. the maintenance of essential County services; and,
- iii. the welfare and protection of persons, property or the environment; and the event or occurrence necessitates the immediate need for goods or services to mitigate the emergency and time does not permit for a competitive procurement process.

In the event of an Emergency, the Chief Administrative Officer, Directors and their respective delegates are authorized to enter into a purchase agreement without the requirement of a formal competitive process.

A list of pre-qualified suppliers will be used to select the suppliers, whenever possible.

Where the procurement cost to mitigate the Emergency is anticipated to exceed \$15,000, there must be a notification sent (email contact is acceptable) to the Director of Finance or delegate. The steps taken to mitigate the Emergency must always be clearly documented regardless of amount and where the aggregate cost for a single supplier are in excess of \$15,000, the emergency procurement shall be reported to County Council (including the source of financing) at the next scheduled meeting following the event. The Director responsible for the area leading the emergency procurement must forward copies of invoices associated with the Emergency to the Director of Financial Services or designate once the Emergency event has been terminated.

### **3.9 (5) Sole Source**

The Procurement may be conducted using a Sole Source process if the goods and/or services are available from only one supplier by reason of;

Statutory or market-based monopoly.

Competition is precluded due to the application of any Act or legislation or because of the existence of patent rights, copyrights, licence, technical secrets or controls of raw material; or the complete item, service or system is unique to one supplier and no alternative or substitute exists.

### **3.9 (6) Single Source**

Single Source means that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications.

The procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular, as follows:

An attempt to acquire the goods and/or services by soliciting competitive bids has been made in good faith, but has failed to identify more than one willing and compliant supplier.

The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive bids.

There is a need for compatibility with goods and/or services previous acquired or the required goods and/or services will be additional to similar goods and/or services being supplied under an existing contract (i.e. contract extension or renewal).



It is advantageous to the County to acquire the goods or services directly from another public body or public service body.

Another organization is funding or substantially funding the acquisition and has determined the supplier and the terms and conditions of the commitment into which the County will enter are acceptable to the County.

Where due to abnormal market conditions, the goods, services or construction required are in short supply.

### **3.9 (7) Sole Source and Single Source – Approval and Reporting**

Awards which qualify to be considered as a Sole Source or Single Source process require the following approval;

The Director and Purchasing must **jointly** approve the award not exceeding \$50,000 and if it is within the approved budget allocation;

County Council must approve the award greater than \$50,000. The Report to County Council must contain detailed rationale supporting the decision.

## **4.0 LEASING**

4.0 (1) The Council of the County of Elgin may enter into a leasing agreement in accordance with the Municipal Act, 2001, O.Reg.46/94, O.Reg. 266/02.

4.0 (2) In certain circumstances, it may be economically advisable for the County to enter into a Financing Lease to acquire the right to use capital property and equipment rather than an outright purchase.

4.0 (3) Leasing is approved as an acceptable means to acquire municipal capital facilities when one or more of the following conditions (goals) are met:

- i. The municipal capital facility cannot be purchased,
- ii. The lease arrangement provide financially attractive interest rates over the entire life of the lease,
- iii. The risk of obsolescence on the leased asset rests with the lessor,
- iv. The leased asset has a high purchase value and is not required on an ongoing basis,
- v. Short-term revenues versus capital needs.

4.0 (4) A by-law is required for all lease agreements with the exception of leases made in emergency situations. These leases will be reported to Council at the first available opportunity. A by-law is not required for leases that are short term in nature of 120 days or less.

4.0 (5) Once each fiscal year the Director of Financial Services shall provide a report to Council outlining all current leasing arrangements.

## **5.0 DISPUTE RESOLUTION**

5.1 Disputes shall be resolved as follows:

- i. meeting between the bidder, the Director of the Department and the Purchasing Coordinator,
- ii. if (i) does not lead to a resolution, the decision can be appealed to the Director of Financial Services and the Chief Administrative Officer.

**6.0 EXCEPTIONS**

6 (1) A Department may request exemption from any or all the purchasing methods outlined in this policy by submission of a report requesting the same to County Council. Such one-time exemption may be granted by resolution.

**7.0 PERFORMANCE SECURITY, INSURANCE AND WORKPLACE SAFETY AND INSURANCE BOARD CERTIFICATES**

7.1 For all tenders valued at over \$100,000, the following guarantees, bonds, certificates and insurance must form part of the contract unless other securities are deemed appropriate as determined by the Director.

7.2 Performance security to guarantee the completion of the Contract is required for the supply and installation of equipment and materials and all services/construction involving County property. Where performance security is deemed necessary, it shall take the form of one or a combination of one or more of the following;

- i. performance bond valued at 100% of the amount of the Tender bid,
- ii. labour and materials bond valued at 50% of the amount of the Tender bid,
- iii. bid bond or bid deposit (certified cheque),
- iv. irrevocable letter of credit.

7.3 The above noted security will be required with respect to the following;

- i) renovation contracts,
- ii) construction contracts,
- iii) new buildings,
- iv) demolition of buildings,
- v) service contracts where the work involves contractors working on/with County owned property,
- vi) supply and installation of equipment and materials and all service/construction involving County owned property.

7.4 Contracts valued at less than \$100,000 may include guarantees at the discretion of the Director.

7.5 The Bid Bond or Bid Deposit amount shall be as specified in the following table:

<b>Total Tender Amount</b>	<b>Bid Deposit Required</b>
\$100,000 to \$250,000	\$10,000
\$250,000 to \$500,000	\$20,000
\$500,000 to \$1,000,000	\$40,000
\$1,000,000 to \$2,000,000	\$75,000
\$2,000,000 and Over	\$150,000

7.6 The Financial Services Department is authorized to cash and deposit any bid deposit cheques in the County's possession which are forfeited as a result of non-compliance with the terms, conditions and/or specifications of a sealed bid.

7.7 In order to further protect the Corporation of the County of Elgin, the following certificates will be required from all successful Bidders/Proponents;

- i) a current and valid insurance certificate for amounts specified in the Bid document,
- ii) a current and valid Workplace Safety and Insurance Board (WSIB) certificate.

## **8.0 EXCLUSION OF BIDDERS**

### **8.1 EXCLUSION OF BIDDERS IN LITIGATION**

- 8.1 (1) No Tender, Proposal or Quotation will be accepted from any company inclusive of its subcontractors, which has a claim or instituted a legal proceeding against the County or against whom the County has a claim or instituted a legal proceeding with respect to any previous Contract, without prior approval by Council.

### **8.2 CONTRACTOR PERFORMANCE APPRAISAL SYSTEM**

- 8.2 (1) The Contractor Performance Appraisal System is a standard process for assessing and recording contractor performance. It is designed to serve as a permanent record for the County and as a means of evaluating and comparing contractor performance on an ongoing basis throughout the project.
- 8.2 (2) The Contractor Performance Appraisal System will be used to evaluate all contracts regardless of value. The implementation of the Performance Evaluation Appraisal System will be at the discretion of the Project Manager and/or the Purchasing Coordinator.
- 8.2 (3) If issues arise, under the direction of the Purchasing Coordinator, the County's Project Manager will be asked to record their concerns using the Vendor Incident Reporting Form. Results will be shared with the Vendor/Contractor/Consultant and a verbal warning may be issued by the Purchasing Coordinator. If performance does not improve, a second Vendor Incident Reporting Form will be issued and results will be shared with the Vendor/Contractor/Consultant. The Purchasing Coordinator will issue a written warning to the Vendor/Contractor/Consultant. If performance does not improve a third Vendor Incident Reporting Form will be initiated by the Project Manager and the results will be shared with the Vendor/Contractor/Consultant. Upon completion of the project, if a third Vendor Incident Reporting Form is issued, under the direction of the Purchasing Coordinator, the Project Manager will complete the applicable Performance Report.
- 8.2 (4) Once the ranking on the applicable Performance Report has been completed, the results will be shared with the Vendor/Contractor/Consultant to discuss the overall ranking for the project.
- 8.2 (5) The performance evaluation shall determine whether a vendor, contractor or consultant will be allowed:
- i) to bid on future projects,
  - ii) the Vendor/Contractor/Consultant be placed on a probationary list for two years to closely monitor future work, (fees required to monitor future work may be added to the project); or,
  - iii) may not be recommended for future work for a maximum period of three years.
- 8.2 (6) The final appeal shall be conducted by a Dispute Committee which will hear from both County staff and the Vendor/Contractor/Consultant at a time and place appointed in writing by the Committee. The Dispute Committee shall be comprised of the Director of Financial Services, the Purchasing Coordinator and two representatives of the relevant Standing Dispute Resolution Committee of Council. The decision of the Dispute Committee shall be in writing, a copy of which shall be provided to the Vendor/Contractor/Consultant, and the decision of a majority of the Dispute Committee shall be final.

## **9.0 RECEIPT OF GOODS**

- 9.(1) The Director or designate shall,
- i. arrange for prompt inspection of goods on receipt to confirm conformance with the terms of the contract, and,
  - ii. inform the Purchasing Coordinator immediately of any discrepancies.

## **10.0 REPORTING TO SENIOR MANAGEMENT TEAM AND COUNTY COUNCIL**

- 10.(1) The Director of Financial Services or designate shall submit to the Senior Management Team and County Council an information report (quarterly) containing the details relevant to the exercise of delegated authority for all contracts awarded that exceed \$15,000 including amendments and renewals. The Director of Financial Services shall certify in the report that the awards are in compliance with the Purchasing Policy.

## **11.0 ACCESS TO INFORMATION**

- 11.(1) The disclosure of information received relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Privacy Act., R.S.O. 1990, as amended.
- 11.(2) All records and information pertaining to tenders, proposals and other sealed bids, which reveal a trade secret or scientific, technical, commercial, financial or other labour relations information, supplied in confidence implicitly or explicitly, shall remain confidential if the disclosure could reasonably be expected to:
- i. prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organizations,
  - ii. result in similar information no longer being supplied to the County where it is in the public interest that similar information continue to be so supplied,
  - iii. result in undue loss or gain to any person, group, committee or financial institution or agency; or,
  - iv. result in information whose disclosure could reasonably be expected to be injurious to the financial interests of the County.

## **12.0 ADVERTISING**

- 12.1(1) To ensure access to all vendors, advertising for Quotations, Tenders, Proposals, Expression of Interest estimated to exceed \$50,000 excluding taxes and freight shall be posted on;
- i) County website,
  - ii) Ontario Public Buyers Association (OPBA),
  - iii) Biddingo website.
- 12.1(2) Financial Services Department will post an annual notice in the local papers advising the public that all Proposals/Tenders/Quotations will be advertised electronically on the County's website, Ontario Public Buyers and Biddingo websites.

**13.0 RETENTION OF DOCUMENTATION**

- 13.1(1) All background information, information submitted by vendors, and any other relevant information involved in obtaining prices for goods and services shall be retained for the entire budget year and six (6) years in records retention.
- 13.1(2) All background information, information submitted by successful vendor, resulting in a contract or agreement shall be retained for a minimum of twenty (20) years in record retention.

**APPENDIX "A"**  
**LEVELS OF CONTRACT APPROVAL AUTHORITY**

In the case of multi-year supply and/or service contracts, the pre-authorized expenditure limit shall refer to the estimated annual expenditure under the contract.

<b>Dollar Value</b> (excluding taxes, duty or shipping)	<b>Approved Authority</b>	<b>Procurement Process</b>	<b>Source of Bid</b>	<b>Report to Council Required</b>	<b>Policy Section</b>
\$15,000 or less	Director or any employee exercising delegated authority approval	Purchase Order/Charge to County	Purchases made from the competitive market place	No	3.3
Greater than \$15,000 but less than \$50,000	Director and Director of Financial Services or employee exercising delegated authority approval (jointly)	<u>Informal Quotations</u> Or <u>Request for Proposal</u>	Minimum of three (3) written quotes by invitation or open competition	No if within 10% of the approved budget allocation	3.4, 3.5, 3.8
		<u>Non-Competitive Procurement</u>		No report to Council if within approved budget	3.9
Greater than \$50,000 but less than \$100,000	Director and Director of Financial Services or employee exercising delegated authority approval jointly	<u>Formal Quotations</u> Or <u>Request for Proposal</u>	By invitation or Open Competition	No Report to Council required if within approved budget	3.6
	County Council	<u>Non-Competitive Procurement</u>		Yes	3.9
Greater than \$100,000	County Council	<u>Request for Tender</u> Or <u>Request for Proposal</u>	By Invitation or Open Competition	Yes	3.7
		<u>Non-Competitive Procurement</u>			3.9

**APPENDIX B**  
**GOODS AND SERVICES NOT SUBJECT TO THIS POLICY**

Exclusions

Competitive Bids shall not be required for the following Goods and Services;

- a) Petty Cash Items
- b) Advertising services (radio, television, newspaper, magazine)
- c) Government Agencies
- d) Travel Expenses including meals, conferences, seminars, conventions, trade shows, and accommodations
- e) Courses
- f) Staff development/Workshops
- g) Memberships
- h) Magazines, Books, Periodicals
- i) Licenses, Certificates (including hardware and software licenses)
- j) Ongoing maintenance for existing computer hardware and software
- k) Professional and skilled services provided to individuals as part of an approved program(s) within the Corporation including but not limited to medical services and counselling services
- l) Postage
- m) Utilities (Water, Sewage, Hydro, Gas, Telephone and Cable TV)

**APPENDIX "C"**  
**IRREGULARITIES CONTAINED IN BIDS**

IRREGULARITY	RESPONSE
Late Bids	Automatic rejection, not read publicly and returned unopened to the bidder.
Unsealed Envelopes.	Automatic Rejection.
Incomplete, illegible or obscure bids or bids which contain additions not called for, erasures, alterations, errors or irregularities of any kind.	May be rejected as informal.
Bids not completed in ink.	Automatic Rejection.
Documents, in which all necessary Addenda have not been acknowledged.	Automatic Rejection.
Failure to attend <b>mandatory</b> site visit.	Automatic Rejection.
Bids received on documents other than those provided by the County of Elgin.	Automatic Rejection.
Failure to insert the Tenderer's business name in spaces provided in the Form of Tender.	Automatic Rejection.
Failure to include signature of the person authorized to bind the Tenderer in the space provided in the Form of Tender.	Automatic Rejection.
Conditions placed by the Tenderer on the Total Contract Price.	Automatic Rejection.
Bids Containing Minor Mathematical Errors.	a) If the amount tendered for a unit price item does not agree with the extension of the estimated quantity and the tendered unit price, or if the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly. All corrections by the Purchasing Coordinator will be made in red ink and initialed. b) If both the unit price and the total price are left blank, then both shall be considered as zero. c) If the unit price is left blank but a total price is shown for the item, the unit price shall be established by dividing the total price by the estimated quantity. d) If the total price is left blank for a lump sum item, it shall be considered zero. e) If the Tender contains an error in addition and/or subtraction and/or transcription <u>in the approved tender documentation format requested (i.e. not the additional supporting documentation supplied)</u> , the error shall be corrected and the corrected total contract price shall govern. f) Tenders containing prices which appear to be so unbalanced as to likely affect the interest of the County adversely may be rejected.



**APPENDIX "C"**  
**IRREGULARITIES CONTAINED IN BIDS**

IRREGULARITY	RESPONSE
<b><u>Bid Security</u></b>	
a) Insufficient Financial Security (no bid deposit or insufficient bid deposit).	Automatic Rejection.
b) Failure to insert name of bonding company.	Automatic Rejection.
c) Signature of bidder and/or bonding company missing when bid bond requested.	Automatic Rejection.
Agreement to provide Performance Security is not provided or is not in the form specified.	Automatic Rejection.
Part bids (all items not bid).	Automatic Rejection unless allowed for in the request.
Withdrawal of Bids	Withdrawal of bids received after the closing time will not be allowed.
Tie Bids	The designated official may use one of the following methods of dealing with tie bids, based upon the specific situation, * use a coin toss to select a recommended bid, * request the tie bidders to submit new bids, * negotiate with the tied bidders to break the tie.

**APPENDIX "D"**  
**DEFINITIONS**

In this policy, unless a contrary intention appears:

**"Agreement"** means a formal written legal agreement or contract for the supply of goods, services, equipment or construction,

**"Addendum"** means additional information supplied by the Corporation after an original Tender, Quotation or Proposal call has been issued,

**"Authority"** means the legal right to conduct the tasks outlined in this policy as directed by Council and delegated through the County's Director of Financial Services to the Purchasing Coordinator,

**"Blanket Order"** shall mean the agreement wherein a vendor will sell certain items to the County for an agreed period of time with established terms and conditions,

**"Bid"** shall mean a submission from a prospective vendor in response to a request for the purchase of goods or services issued by the County,

**"Bidder"** means supplier or contractor from whom the Corporation has received a Tender or Quotation, that is subject to acceptance or rejection,

**"Bid Deposit"** shall mean a financial guarantee to ensure the successful bidder will enter into an agreement,

**"Bid Irregularity"** means a deviation between the requirements of the Bid and the information provided or received in a Bid response,

**"Consultant"** means the person or firm, who by virtue of a particular expertise is selected by the Corporation to undertake a specific task or assignment that may include designing specifications and preparing plans or programs,

**"Contract"** means a commitment for the purchase and supply of Goods and Services evidenced in writing by an Agreement or other documentation appropriate to the transaction and duly authorized on behalf of the County in accordance with this Policy,

**"County or Corporation"** means the Corporation of the County of Elgin,

**"Cooperative Purchasing"** means the participation of two or more public agencies in a request for Quotation, Tender or Request for Proposal call,

**"Council"** shall mean the elected Municipal Council of the Corporation of the County of Elgin,

**"Declaration Respecting Workers' Compensation Act, R.S.O. 1990/Corporation Tax Act"**  
"Certificate of Clearance" means a declaration that a bidder has paid all assessments or compensation payable and has otherwise complied with all requirements of the Workplace Safety and Insurance Board and that the bidder has paid all taxes and/or penalties imposed on it pursuant to the Corporation Tax Act, (R.S.O. 1990),

**"Designate"** means a person authorized by the Department Head to act on their behalf for the purposes of this policy,

- "Director"** refers to a head of a County department operating within the County of Elgin,
- "Emergency"** means an occurrence resulting from an unforeseen action or consequence of an unforeseen event, (trigger event) which must be remedied on a time-sensitive basis to avoid a material financial risk, serious delays, injury, further damage or to restore or maintain services,
- "Executed Agreement"** means a form of agreement, either incorporated in the bid documents or prepared by the County, to be executed by the successful bidder and the County,
- "Expression of Interest"** means a focused market research tool used to determine vendor interest in a proposed project, not directly leading to the acquisition of goods and services,
- "Goods and Services"** includes supplies, materials, equipment, property and contracts for construction, maintenance, service or consulting and professional services,
- "In-House Bids"** also known as "Managed Bids" shall mean that during the Public Procurement Process, an agency within the Corporation of the County of Elgin is not permitted to submit a bid,
- "Insurance Documents"** shall mean certified documents issued by an insurance company licensed to operate by the Government of Canada or the Province of Ontario certifying that the bidder is insured in accordance with the County's insurance requirements as contained in the bid documents,
- "Irregularities Contained in Bids"** is defined in Appendix "C" and include the appropriate response to those irregularities,
- "Labour and Material Bond"** means a bond issued by a surety company on the County of Elgin standard Form of Bond to ensure that the contractor will pay his or her suppliers and thereby protects the Corporation against items which might be granted to a supplier should the contractor not make proper payments,
- "Letter of Agreement to Bond"** means a letter or other form issued by a bonding agency licensed to operate by the Government of Canada or the Province of Ontario advising that, if the bidder is successful, the bonding agency will issue the required bonds,
- "Lowest Acceptable Bid"** means the lowest price submitted which meets the requirements and specifications as set out in the bid request, minor deviations excepted,
- "Normal Operating Expenditure"** means expenditure of an operational recurring nature and does not include one-time special or Capital expenditure,
- "Performance Bond"** means a bond issued by a surety company on the County of Elgin standard Form of Bond executed in connection with a contract and which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and agreements contained in the contracts,
- "Procure" "Procurement" "Purchase"** means to acquire by purchase, rental, lease or trade,
- "Quotation Summary Form"** means a written request in an approved format and duly authorize to obtain goods and services,

**“Quotation”** means a request for prices on specific goods and/or services from selected vendors which are submitted verbally, in writing or transmitted by facsimile or email as specified in the Request for Quotation,

**“Request for Expression of Interest”** is a focused market research tool used to determine vendor interest in a proposed procurement. It may be issued simultaneously with a Request for Qualifications when the proposed procurement is well defined and the purchaser has clear expectations for the procurement,

**“Request for Information”** is used prior to issuing a tender call as a general market research tool to determine what products and services are available, scope-out business requirements, and/or estimate project costs,

**“Request for Proposal”** means a process where a need is identified, but the method by which it will be achieved is unknown at the outset. This process allows vendors to propose solutions or methods to arrive at the desired result,

**“Sealed Bid”** means a formal sealed response received as a part of a quotation, tender or proposal,

**“Single Source”** means there is more than one source in the open market but only for reasons of function or service one vendor is recommended for consideration of the particular goods and/or services,

**“Sole Source”** means there is only one source of supply of particular goods and services,

**“Supplier”** means any individual or organization providing goods or services to the County of Elgin including but not limited to contractors, consultants, vendors, service organizations, etc.,

**“Tender”** means a sealed bid which contains an offer in writing to execute some specified services, or to supply certain specified goods, at a certain price, in response to a publicly advertised request for bids,

**“Value Analysis”** typically refers to a life cycle costing approach to valuing a given alternative, which calculates the long-term expected impacts of implementing the particular option.

## **APPENDIX "E"**

### **Guidelines for the Execution of Purchases**

These guidelines are provided to assist the Director and/or designate should they choose to exercise their authority to purchase goods or services. Guidelines are organized by objective as follows:

#### **Objective 1: Corporate Efficiency**

Purchases under this authority must be for unique Departmental requirements, and therefore not duplicated in other Departments, such that Corporate purchasing power or standardization is not a factor in costing. Requirements cannot be split in order to qualify for this process.

#### **Objective 2: Competitive Process**

A competitive process is undertaken whereby a minimum of three bids is obtained, and the lowest compliant bid is awarded the contract. Care must be taken as to how bids are sought, bidder lists are maintained and how competition is encouraged. Although a minimum of three bids is required, an open process without a minimum number of bids will be more competitive, and is encouraged.

#### **Objective 3: Open Process**

Departmental needs are communicated to bidders, who are able to bid on goods or services they are qualified to provide. There should be no limitation of bids to an established listing.

#### **Objective 4: Transparent Process**

The process is undertaken based on clear definition of the product or service requirement, and a clear outline of the review and criteria to be undertaken. The decision to choose the low bidder will be based solely on the requirements as documented, the bidder document, and the application of the review criteria. The same decision should be arrived at each time given the same set of facts, which will facilitate the dispute resolution process.

#### **Objective 5: Fair Process**

The process will be fair, such that no action is undertaken by the County staff to allow any given bidder an unfair advantage. This does not however, require County action to ensure that existing conditions are changed to ensure that any conversion costs from an incumbent to another supplier are ignored in an evaluation – it is in the best interest of the County to ensure that such "leveling of the playing field" is not required.

#### **Objective 6: Insurance and Risk Management**

A Liability Insurance Form and WSIB Certificates of Clearance may be submitted as deemed appropriate at the commencement of the project and periodically as the work is completed. The Director may choose to request Performance and Labour and Material Bonds for informal quotations if it is believed to serve the County's best interest.

#### **Objective 7: Authorization for Payment**

Quotation Summary Form must be completed, ensuring that the appropriate account has sufficient funds to pay for the contract.

**Objective 8: Reporting of Items Conducted under Delegated Authority**

The Director of Finance shall produce a report of all purchases in excess of \$15,000 carried out under this authority, in a quarterly report of contracts to Council.

**Objective 9: Standardization**

In order to assist in cross training, enable multiple bidders to understand the process requirements and ensure that legal and insurance risks are controlled, standard formats will be used for Requests for Quotations. These forms will be updated by Financial Services as appropriate.