

COUNTY OF ELGIN

By-Law No. 20-07

**“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
REPEAL BY-LAW NO. 13-19”**

WHEREAS pursuant to Section 270(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,

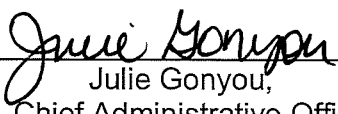
WHEREAS Council did previously pass By-Law No. 13-19 which standardized procedures to ensure fair and equitable practices for the procurement of all County goods and services; and,

WHEREAS, pursuant to Section 270(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 THAT By-Law No. 13-19 be repealed.
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 10th DAY OF MARCH 2020.



Julie Gonyou,
Chief Administrative Officer.



Dave Mennill,
Warden.

SCHEDULE A
By-Law No. 20-07
PROCUREMENT POLICY

1.0 OBJECTIVE

- 1.1 This Procurement 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, Suppliers 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 to County Council.
- 1.3 The Council of the Corporation of the County of Elgin recognizes its responsibility for reviewing and updating the existing Procurement Policy to ensure compliance with respect to the Municipal Act, 2001, Part VI, Section 270, as amended.

2.0 DEFINITIONS

In this policy, unless a contrary intention appears, the following definitions apply:

“Agreement” means a formal written legal agreement or contract for the supply of goods, services, equipment or construction.

“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 Supplier 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 Supplier in response to a request for the purchase of goods or services issued by the County.

“Bidder” means supplier or contractor from whom the County has received a Tender or Quotation, that is subject to acceptance or rejection.

“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 County to undertake a specific task or assignment that may include designing specifications and preparing plans or programs.

“Contract” or **“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.

“Contractor” means a person or company that agrees to conduct work for the County as specified under the terms of a contract.

“County” or **“Corporation”** means the Corporation of the County of Elgin, and, for purposes of this Procurement Policy includes its User Departments.

“Cooperative Purchasing” means the participation of two or more public agencies in a Request for Quotation, Tender or Proposal call.

“Council” shall mean the elected Municipal Council of the Corporation of the County of Elgin.

“Designate” means a person authorized by the Director to act on their behalf for the purposes of this policy.

“Director” refers to a head of a County User 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 specifically by or on behalf of the County, to be executed by the Supplier and the County.

“Expression of Interest” means a submission in response to a Request for Expression of Interest (RFEI).

“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 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 Supplier is insured in accordance with the County’s insurance requirements as contained in the bid documents.

“Irregularities Contained in Bids” include but are not necessarily limited to those items identified in Appendix C hereto and further include the associated consequence specified therein.

“Labour and Material Bond” means a bond issued by a surety company executed in connection with a contract to ensure that the contractor will pay their suppliers and thereby protects the County against claims which might be pursued by a supplier to the contractor should the contractor not make proper payments.

“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 executed in connection with a contract and which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and obligations contained in an agreement with the County.

“Performance Security” shall mean a financial guarantee to ensure the successful Bidder will enter into an agreement.

“Procurement” or **“Purchase”** means to acquire by purchase, rental, lease or trade.

“Proponent” means supplier, consultant or service provider from whom the County has received a formal Proposal, in response to a publicly advertised Request for Proposal, that is subject to acceptance or rejection.

“Proposal” means a submission to provide specified services, or to provide certain goods, which contains pricing and options, in response to a Request for Proposal.

“Purchase Order” means the purchasing document used to formalize a purchasing transaction with a Supplier.

“Purchasing Coordinator” means a person responsible for administering and coordinating the purchasing function at the County.

“Request for Quotation” or **“RFQ”** means a competitive request for prices on specific goods and/or services from Suppliers which are submitted as specified in the Request for Quotation.

“Request for Expression of Interest” or **“RFEI”** means a public request made by the County seeking responses from potential Suppliers for the purposes of compiling a list of Suppliers who may be interested in providing Goods and/or Services to the County from time to time.

“Request for Information” is used 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 Pre-Qualification” or “RFPQ” is a procurement process used to prequalify potential Suppliers in which factors such as financial capability, experience, and reputation are considered in order to develop a list of qualified Suppliers for subsequent participation in an invitational bid opportunity.

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

“Request for Tender” or “RFT” means a competitive request for prices on specific goods and/or services from Suppliers which are submitted as specified in the Request for Tender.

“Single Source” means there is more than one source in the open market but only for reasons of function or service one Supplier 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 offering goods or services to the County including but not limited to contractors, consultants, vendors and service organizations.

“Tender” means a bid which contains an offer to execute some specified services or to supply certain specified goods, at a certain price, in response to a publicly advertised Request for Tender.

“User Department” means the Department within the County Administration that requires the Goods and Services.

3.0 PURCHASING RESPONSIBILITIES/AUTHORITY

- 3.1 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.
- 3.2 The Director of Finance may appoint a Purchasing Coordinator to exercise any or all responsibilities assigned in this policy.
- 3.3 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 Procurement Policy provides guidelines outlining how spending authority is to be used. Levels of contract approval authority are summarized in Appendix “A”.
- 3.4 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 User Department, in conjunction with the Purchasing Coordinator, will ensure that the Goods and Services are properly approved and that funds are available.

- 3.5 Where expenditure estimates approved in the budget have been subject to a Request for Quotation, Request for Tender or Request for Proposal, 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.
- 3.6 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.
- 3.7 Normal Operating Expenditures 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.
- 3.8 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 contact the Supplier and attempt to negotiate to have said deficiencies corrected.
- 3.9 Prior to Council's approval of the current Budget, a User 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.
- 3.10 Resolutions approving budget amendments, capital expenditures or special appropriations shall contain the purpose of expenditure, cost estimates or expenditure limitation, and the fund in which an appropriation has been provided.
- 3.11 During the public procurement process, in-house bids will not be considered.
- 3.12 The Purchasing Coordinator and/or Director of Financial Services may review User Department purchases on an ongoing basis to review the effectiveness and integrity of the process and policy adherence.
- 3.13 This Procurement 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.
- 3.14 Goods and Services that are not subject to this By-Law are listed in "Appendix B".

4.0 METHODS OF PROCUREMENT

4.1 Low Dollar Value Procurements (up to \$15,000)

- a) Procurements up to \$15,000 shall be considered low dollar value procurements.
- b) All low dollar value procurements shall utilize applicable County contracts and shall otherwise be in accordance with this policy.
- c) 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.
- d) All information on low dollar value procurements must be documented and maintained on file.
- e) Low dollar value procurements do not require a Request for Quotation (RFQ), Request for Proposal (RFP) or Request for Tender (RFT). However, obtaining competitive quotes is considered a good business practice and should be exercised.
- f) The Purchasing Coordinator may conduct reviews to ensure the requirements of this section and all other applicable sections of this policy have been met.

4.2 Request for Quotation (up to \$100,000)

- a) For Goods and Services for estimated expenditures **greater than \$15,000**, the Director or designate, **in consultation** with the Director of Financial Services or Purchasing Coordinator, shall be authorized to make purchases of goods and services provided:
 - i. the requirement can be fully defined;
 - 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 the Purchasing Coordinator, 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 User Department shall be responsible to review the competitive bid and verify that all terms, conditions and specifications of the bid are met;
 - vii. The County reserves the right in its absolute sole discretion to accept or reject any bid;
 - viii. The Purchasing Coordinator may conduct reviews to ensure the requirements of this section and all other applicable sections of this policy have been met;

- ix. If 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.

b) **Informal Quotation (greater than \$15,000 but not greater than \$50,000)**

In addition to the requirements set forth in Section 4.2a above and for procurement of goods and services of a value greater than \$15,000 but not greater than \$50,000 the following requirements also apply:

- i. Specifications (as applicable) can be issued and Bids can be received by electronic transmission;
- ii. Bids may be submitted on a specified weekday at a specified time;
- iii. The e-bidding system may be utilized for Request for Quotations in this dollar value range.

c) **Formal Quotation (greater than \$50,000 but not greater than \$100,000)**

In addition to the requirements set forth in Section 4.2a above and for procurement of goods and services of a value greater than \$50,000 but not greater than \$100,000 the following requirements also apply:

- i. Request for Quotation documents will be provided to Bidders;
- ii. Bids must be submitted electronically on a specified weekday at a specified time;
- iii. The e-bidding system will be utilized for Request for Quotations in this dollar value range. Submissions will be electronically sealed by the bidding system until the closing date and time.

d) **Approval**

- i. In addition to the requirements set forth in Section 4.2a,b and c above, the Director or any employee exercising delegated authority approval and the Purchasing Coordinator must **jointly** approve the award.

4.3 **Request for Tender (greater than \$100,000)**

- a) For goods and services for estimated expenditures **greater than \$100,000**, the Director or Designate and the Director of Financial Services or Purchasing Coordinator shall be authorized to issue a Request for Tender provided:
 - i. Request for Tender documents are to be provided to Bidders;
 - ii. Bids must be submitted electronically on a specified weekday at a specified time;
 - iii. The project is specifically included within the approved budget and the total submitted price does not exceed the approved budget allocation for the project.
- b) The e-bidding system will be utilized for all Tenders and submissions will be electronically sealed by the bidding system until the closing date and time.
- c) The Purchasing Coordinator shall forward to the User Department a summary of the bids subject to review by the Director.

- d) Council reports initiated for a Request for Tender shall contain a recommendation outlining the sources of financing, allocation of revenues, and other financial commentary as considered appropriate.
- e) Approval
 - i. Approval of a Request for Tender must follow the process detailed in Section 5.0.

4.4 **Request for Proposal**

- a) The Request for Proposal process 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.
- b) A Request for Information or a Request for Expression of Interest 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/or the selection of qualified suppliers.
- c) The Purchasing Coordinator 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, past performance, facilities, equipment, pricing, life cycle costing, standardization of product and aspects that would support environmental procurement.
- d) Directors or any employee exercising delegated authority approval shall identify appropriate evaluation criteria from the list maintained by the Purchasing Coordinator 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.
- e) An optional two-envelope process may be used for RFP's. The two-envelope process means the proposal is submitted with the pricing sealed separately. The pricing is un-sealed if the Proponent meets the minimum threshold score listed in the RFP document.
- f) The Director or any employee exercising delegated authority approval shall provide to the Purchasing Coordinator in writing, the budget authorization, terms of reference and evaluation criteria to be applied in evaluating the proposals submitted.
- g) The Purchasing Coordinator will be the lead in the evaluation process. A selection committee will be formed with a minimum of three evaluators and be comprised of at least two representatives from User Department(s). Evaluators 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. The Purchasing Coordinator may or may not participate in the scoring of the proposals.

- h) During the proposal process, all communication with Proponents shall be through the Purchasing Coordinator.
- i) The Purchasing Coordinator 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. The Purchasing Coordinator is responsible for documenting the determination of best value.
- j) With respect to all Reports to Council initiated for the RFP, the following information will be included:
 - i. sources of financing and/or allocation of revenues and other financial commentary as considered appropriate;
 - ii. criteria and analysis to determine best value;
 - iii. recommended successful Proponent and cost;
 - iv. a copy of the RFP document (as attachment 1);
 - v. a summary of the RFP document posting including dates, submissions and plan takers (as attachment 2);
 - vi. a summary of the evaluation committee and confirmation that the evaluators have no pecuniary interests (as attachment 3).
- k) Reporting will not include a summary of prices, 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.
- l) Unsuccessful Proponents may, upon request, attend a debriefing session with the Purchasing Coordinator to review the Proposal. Discussions relating to any Proposal 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.
- m) The e-bidding system will be utilized for Request for Proposals and submissions will be electronically sealed by the bidding system until the closing date and time.
- n) The County shall publish an award notice using the bidding system.
- o) Approval
 - i. Approval of a Request for Proposal must follow the process detailed in Section 5.0.

4.5 **Request for Pre-Qualification**

- a) A Request for Pre-Qualification may be issued to pre-qualify Suppliers for various projects. The purpose of the RFPQ is to determine whether the qualifications of a Supplier, as required by the County, are at a level that will allow participation in a subsequent bid opportunity that takes place as a direct result of the RFPQ.
- b) A Supplier may be pre-qualified by providing an acceptable response to a RFPQ. Selection of pre-qualified Suppliers will be based on disclosed evaluation criteria.
- c) Supplier submissions will be evaluated and ranked by an Evaluation Committee and may consist of County staff and Consultant staff (if applicable).
- d) Only the Suppliers that reach the established threshold contained in the RFPQ document will be pre-qualified and invited to bid on the particular bid opportunity.
- e) **Approval**
 - i. Approval of Pre-Qualified Suppliers will be made by the Purchasing Coordinator based on the evaluation committees ranking and scoring of Suppliers based on the established threshold noted in the RFPQ document.

4.6 **Request for Expression of Interest**

- a) A Request for Expression of Interest (RFEI) may be issued for the purpose of determining the availability of Suppliers and for the purpose of compiling a list of Suppliers. A RFEI may be used as a pre-condition to a Request for Proposal.
- b) The receipt of an Expression of Interest by the County does not create any obligation between the potential Supplier and the County.

4.7 **Non-Competitive Purchases** **(Emergency, Sole and Single Source)**

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 the Purchasing Coordinator if the procurement qualified as a, Sole Source or Single Source purchase.

- a) Emergency Procurement

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.

b) 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.

c) 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:

- i. 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.
- ii. The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive bids.
- iii. 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).
- iv. It is advantageous to the County to acquire the goods or services directly from another public body or public service body.

- v. 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.
 - vi. Where due to abnormal market conditions, the goods, services or construction required are in short supply.
- d) Approval
- i) Awards which qualify to be considered as a Sole Source or Single Source must follow the process detailed in Section 5.0.

4.8 **Blanket Order Contracts**

- a) Blanket order contracts typically occur as a result of a previous competitive bid, which establishes a Supplier as the preferred source for Goods and Services, over a specified term.
- b) A Blanket Order may be used where:
 - i. one or more User 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, Co-operative Purchasing consortium and Provincial Vendor of Record contracts;
 - v. 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;
 - vi. Where procurement action is initiated by a User Department for frequently used goods or services, it is to be made with the supplier or suppliers listed in the Blanket Order Contract;
 - vii. Blanket Orders shall indicate the expected quantity of the specified goods or services to be purchased over the time period of the agreement and 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;
 - viii. Blanket Orders shall be issued for a specific time period with all ordering User Departments responsible for maintaining purchases within budget allocations.

4.9 **Cooperative Purchasing**

- a) The County may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interests of the County to do so.
- b) The decision to participate in cooperative purchasing agreements will be made by the Purchasing Coordinator in conjunction with the Director of Finance.

- c) The individual policies of the government agencies or public authorities participating in the cooperative competitive bid are to be the accepted by-law for that particular competitive bid.

4.10 **Leasing**

- a) The Council of the County of Elgin may enter into a leasing agreement in accordance with the Municipal Act, 2001.
- b) 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.
- c) 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 provides 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.
- d) 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.

4.11 **Exceptions**

- a) A User 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.

5.0 **PROCUREMENT APPROVAL**

- 5.1 Any person delegated approval pursuant to this policy shall ensure that an approved budget exists for the proposed procurement and that such procurement does not violate any County policies or any applicable law. Any such procurement must also satisfy any applicable audit and documentation requirements of the County.
- 5.2 The following body and persons shall have the respective approval authority as set out below (see summary in Appendix "A"). All dollar amounts are based on annual amounts and must be within pre-approved budget limits.

- a) County Council
 - i. RFT greater than \$250,000
 - ii. RFP greater than \$250,000
 - iii. Sole Source or Single Source greater than \$50,000
- b) Directors (and Purchasing Coordinator jointly)
 - i. RFQ/RFT not exceeding \$250,000
 - ii. RFP not exceeding \$250,000
 - iii. Sole Source or Single Source not exceeding \$50,000
- c) Employees exercising delegated authority
 - i. Non-competitive procurements not exceeding \$15,000

Approvals may be overridden in the case of an emergency as defined in Section 4.7(a) of this policy.

5.3 At the discretion of the Director of Financial Services, CAO or County Council, Council approval may be required irrespective of the value of the contract, if deemed in the best interest of the County.

5.4 Despite any other provision of this policy, the following contracts are subject to County Council approval;

- a) any contract requiring approval of the Ontario Municipal Board or any successor thereto, including but not limited to the Local Planning and Appeal Tribunal;
- b) any contract prescribed by statute to be made by the Municipality with the approval of Council or otherwise to be made by Council on behalf of and as binding upon the Municipality;
- c) where the cost amount proposed for acceptance is 10% greater than the County Council approved budget for that expenditure;
- d) where the net revenue amount proposed for acceptance is lower than the County Council approved budget;
- e) where a substantive objection emanating from the bid solicitation has been filed with a Director;
- f) where a major irregularity precludes the award of a contract to a Supplier.

5.5 **Delegation of Approval Authority**

- a) Delegation of Approval Authority means the formal delegation of authority to perform a task or approval by person in a position with authority under this policy, resulting in a 'delegate'.
- b) The CAO and Directors shall prepare a 'delegation of approval authority list' within their respective areas.
 - i. The list will provide evidence that the staff listed have been delegated approval authority by the Director;
 - ii. The list shall include the staff person's name, title and approval limit;
 - iii. The list shall be updated upon any change in staff or position;
 - iv. A copy of the list shall be sent to the Director of Finance and Purchasing Coordinator each time there is a revision and at the start of every year.

- c) Staff that have been delegated approval authority from the CAO or Director shall have no authority to delegate this approval to any other person.
- d) From time to time temporary delegation must be defined in writing.

6.0 PERFORMANCE SECURITY, INSURANCE AND WSIB REQUIREMENTS

For all tenders valued at over \$100,000, the following guarantees, bonds, certificates and insurance must form part of the contract.

6.1 Performance Security

- a) 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. Bid bond (minimum 10% of the bid amount)
 - ii. Performance bond (minimum 50% of the bid amount)
 - iii. Labour and material payment bond (minimum 50% of the bid amount)
- b) Contracts valued at less than \$100,000 may include guarantees at the discretion of the Director and Purchasing Coordinator.

6.2 Other Guarantees

The Purchasing Coordinator, in consultation with the appropriate Director shall select any other appropriate means to guarantee execution and performance of the contract. Guarantees may include but are not necessarily limited to, one or more of the following; financial security deposit, provisions for liquidated damages, progress payments and holdbacks.

6.3 Insurance Documents and Workplace Safety and Insurance Board (WSIB)

- a) In order to further protect the County, the following documents will be required from all successful Bidders/Proponents performing work on County property;
 - i. a current and valid certificate of insurance for the amount specified in the bid document;
 - ii. a current and valid Workplace Safety and Insurance Board (WSIB) clearance certificate;
 - iii. confirmation of compliance with AODA requirements;
 - iv. confirmation of compliance with County policies.

7.0 CONTRACT ADMINISTRATION

- 7.1 The award of a contract may be made by way of an Agreement and/or purchase order.

- 7.2 A purchase order will be used when the resulting contract award is over \$15,000. The Purchasing Coordinator will issue an authorized purchase order incorporating the terms and conditions relevant to the contract award.
- 7.3 An Agreement shall be used when the resulting contract is complex and contains special terms and conditions.
- 7.4 It shall be the responsibility of the Purchasing Coordinator to determine if it is in the best interest of the County to establish an Agreement with a Supplier.
- 7.5 Where an Agreement is required as a result of a contract award, the Warden and Chief Administrative Officer shall execute the Agreement in the name of the County.

7.6 **Contract Renewal Options**

Where a contract contains an option for renewal, the Director and Purchasing Coordinator may jointly exercise such option provided that all of the following apply:

- a) The Supplier's performance in supplying the good and/or services or construction is considered to have met the requirements of the contract;
- b) Any price increases are consistent with the prevailing market conditions for the goods or services being purchased;
- c) The facts justifying the decision to award to this Supplier previously are still relevant at the time of contract renewal;
- d) The original report to Council (if applicable) clearly identified the options to extend the contract;
- e) Funds are available or will be available in appropriate accounts within the approved budget to meet the proposed expenditure;
- f) The contract renewal option is in the best interest of the County.

8.0 CONTRACTOR PERFORMANCE APPRAISAL SYSTEM

- 8.1 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 The implementation of the Contractor Performance Appraisal System will be at the discretion of the Director and/or the Purchasing Coordinator. The Contractor Performance Appraisal System is mandatory for all contracts valued over \$100,000.
- 8.3 If issues arise, under the direction of the Purchasing Coordinator, the County's Project Manager will be asked to record their concerns using the Supplier Incident Reporting Form. Results will be shared with the Supplier and a verbal warning may be issued by the Purchasing Coordinator. If performance does not improve, a second Supplier Incident Reporting Form will be issued and results will be shared with the Supplier. The Purchasing Coordinator will issue a written warning to the Supplier. If performance

does not improve a third Supplier Incident Reporting Form will be initiated by the Project Manager and the results will be shared with the Supplier. Upon completion of the project, if a third Supplier Incident Reporting Form is issued, under the direction of the Purchasing Coordinator, the Project Manager will complete the applicable Performance Report.

- 8.4 Once the ranking on the applicable Performance Report has been completed, the results will be shared with the Supplier to discuss the overall ranking for the project.
- 8.5 The performance evaluation shall determine whether a Supplier will be:
- a) allowed to bid on future projects;
 - b) 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,
 - c) not recommended for future work for a maximum of three years.
- 8.6 In the event that a Supplier disputes the results of a Performance Report, recourse is available through the dispute resolution process set forth in section 9.0 below.

9.0 DISPUTE RESOLUTION

In the event that a Supplier identifies a dispute regarding any process outlined in this policy, the County shall follow the steps below:

- a) meeting between the Supplier, the Director of the User Department and the Purchasing Coordinator,
- b) if (a) does not lead to a resolution, the decision can be appealed to the Director of Financial Services who will then convene a Review Committee.
- c) The Review Committee shall hear from both County staff and the Supplier at a time and place decided by the Committee. The Review Committee shall be comprised of the Chief Administrative Officer, Director of Financial Services and two (2) Directors or their designates. A quorum of the Review Committee shall be two of the four members. The decision of the Review Committee shall be in writing, a copy of which shall be provided to the Supplier and the Purchasing Coordinator. The decision of the Review Committee shall be final.

10.0 DOCUMENT ACCESS AND RETENTION

10.1 Access to Information

- a) 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 Protection of Privacy Act., R.S.O. 1990, as amended.

- b) All records and information pertaining to tenders, proposals and other 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.
- c) In addition to the restriction against disclosure set forth in section 10.1b above, no records or information pertaining to Tenders, Proposals and Bids shall be disclosed in violation of the Municipal Freedom of Information and Protection of Privacy Act.

10.2 **Document Retention**

- a) All background information, information submitted by Suppliers, and any other relevant information involved in obtaining prices for goods and services through a formal competitive procurement process, shall be retained for the entire budget year and six (6) years in records retention.
- b) All background information, information submitted by a successful Supplier, resulting in a Contract or Agreement, shall be retained for a minimum of twenty (20) years in record retention.

11.0 **ADVERTISING / BID POSTING**

- 11.1 Advertising for bid opportunities estimated to exceed \$50,000 excluding taxes shall be posted on one or more public tendering website with a direct link from the County's website.

12.0 **GENERAL**

12.1 **Exclusion of Bidders in Litigation**

No Tender, Proposal or Quotation will be accepted from any Supplier 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.

12.2 **Quarterly Report to Senior Management Team and County Council**

The Purchasing Coordinator 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, renewals and leases. The Director of Financial Services shall certify in the report that the awards are in compliance with the Procurement Policy.

12.3 **Accessibility for Ontarians with Disabilities Act (AODA)**

The County, to the extent possible, shall incorporate accessibility design, criteria and features, when procuring or acquiring goods, services or facilities in accordance with the AODA. Where it is not practicable to incorporate the said accessibility design, criteria and features when procuring or acquiring goods, services or facilities, the County shall be prepared to provide, upon request, an explanation as to why this is the case. (Ontario Regulation 191/11).

12.4 **Environmental Considerations**

In order to contribute to waste reduction and to increase the development and awareness of environmentally sound procurement 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.

12.5 **Trade Agreements**

The Procurement Policy shall comply with all applicable trade agreements such as the Canada Free Trade Agreement (CFTA), the Comprehensive Economic and Trade Agreement (CETA) and any future trade agreements that are applicable to the County.

12.6 **Local or Geographical Preference**

The County shall not give any local or geographical preference during the competitive bid process. The County may mandate certain bona fide on-site response time requirements for specific situations.

12.7 **Receipt of Goods**

The Director or designate shall arrange for prompt inspection of goods on receipt to confirm conformance with the terms of the contract and inform the Purchasing Coordinator immediately of any discrepancies.

APPENDIX A
LEVELS OF CONTRACT APPROVAL AUTHORITY

Dollar Value (excluding taxes)	Procurement Process	Approval Authority	Report to Council Required	Policy Section
Up to \$15,000		Director or any employee exercising delegated authority approval	No	4.1
Greater than \$15,000 but less than \$50,000	Informal RFQ	Director or any employee exercising delegated authority approval and Purchasing Coordinator	No	4.2 a,b
Greater than \$50,000 but less than \$100,000	RFQ	Director or any employee exercising delegated authority approval and Purchasing Coordinator	No	4.2 a,c
Up to \$250,000	RFT / RFP	Director or any employee exercising delegated authority approval and Purchasing Coordinator	No	4.3 / 4.4
Greater than \$250,000	RFT / RFP	County Council	Yes	4.3 / 4.4
Up to \$50,000	Single Source or Sole Source	Director and Director of Financial Services or employee exercising delegated authority approval (jointly)	No	4.7 b,c
Greater than \$50,000	Single Source or Sole Source	County Council	Yes	4.7 b,c

APPENDIX B
GOODS AND SERVICES NOT SUBJECT TO THIS POLICY

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)
- n) Council approved grants

APPENDIX C
IRREGULARITIES CONTAINED IN BIDS

IRREGULARITY	CONSEQUENCE
Late Bids	Automatic Rejection Bidding system will not accept late bids.
Incomplete, illegible or obscure bids	Automatic Rejection.
Documents, in which all necessary Addenda have not been acknowledged.	Bidding System does not accept bids that have not acknowledged all addenda
Failure to attend mandatory site visit.	Automatic Rejection.
Bids received on documents other than those provided by the County.	Automatic Rejection.
Conditions placed by the Bidder on the Total Contract Price.	Automatic Rejection.
Bids Containing Minor Mathematical Errors.	The County has the right to correct minor mathematical errors.
<u>Performance Security</u>	
a) Insufficient Performance Security (no bid bond or insufficient bid bond).	Automatic Rejection.
b) Signature of bidder and/or bonding company missing when bid bond requested.	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 Purchasing Coordinator may use one of the following methods of dealing with tie bids, based upon the specific situation: 1) use a coin toss to select a recommended bid; 2) request the tie bidders to submit new bids; 3) negotiate with the tied bidders to break the tie.
Other minor irregularities	The Purchasing Coordinator, in conjunction with the Director of Finance shall have the authority to waive irregularities, which they jointly consider to be minor.