

## **By-law Number 16-2020**

### **of The Regional Municipality of Durham**

Being a by-law to repeal By-law number 68-2000, as amended, and replace it with a new Purchasing By-law for the purpose of modernizing the Regional Municipality of Durham's purchasing policies and procedures.

Whereas the Council of The Regional Municipality of Durham had enacted By-law number 68-2000, as amended, being a by-law to govern the procedures for open, fair and transparent procurement for the Region;

Whereas Section 270(1) of the Municipal Act, 2001 requires municipalities to adopt policies with respect to the procurement of Goods, Services and Construction;

Now therefore, the Council of The Regional Municipality of Durham hereby enacts as follows:

#### **1. Definitions and interpretations**

##### **1.1 Definitions**

**"acquisition"** means the process of obtaining goods and services, including rental or lease;

**"bid"** means an offer or submission from a vendor in response to a request for quotation, tender, or proposal, which is subject to acceptance or rejection;

**"Commissioner of Finance"** means the Commissioner of Finance and Treasurer for The Regional Municipality of Durham, or his or her designate;

**"centralized purchasing"** refers to the activities in this regard conducted by the Purchasing Section of the Finance Department which is responsible for the purchase of all goods and services as provided in this by-law;

**"consulting and professional services"** means the services of those vendors who provide advice and recommendations based upon their professional ability and expertise, on which the Region may rely, and includes the resulting reports, diagrams, documents, and work product.

**"contract"** means binding agreement between two or more parties;

"co-operative purchasing" refers to the participation of two or more public agencies in a tender call;

**"council"** means the Council of The Regional Municipality of Durham;

**"Department Head"** means the head of any Regional department;

**“emergency”** means a situation where the immediate purchase of goods, works or services is essential to prevent serious delays in the work of any department which might involve danger to life, damage to property or the provision of an essential service;

**"goods and services"** includes supplies, equipment, materials and maintenance and service contracts;

**"instructions to bidders"** are the instructions given to prospective bidders in a request for quotation, tender or proposal;

**"inventory control"** refers to the management of materials required by user departments to ensure that they are available when required while at the same time minimizing investment;

**“limited tendering”** means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

**"personal purchases"** means a purchase of goods or services requested by an elected official, an appointed official or by any other employee of the Region the requirement for which is not for the Region or any of its purposes but is for the benefit and use of the person requesting the purchase;

**"proposal"** means an offer from a supplier in response to a request for proposal, acceptance of which may be subject to further negotiation;

**"purchase order"** means a written or electronic offer to purchase goods and services or a written or electronic acceptance of an offer;

**"purchase requisition"** is a request, in an approved form, to the Purchasing Section to purchase goods and services;

**“quality based selection”** is a process for competitive selection of consultant and professional services using value-based criteria such as experience, expertise, resources, etc;

**"quotation"** means an offer from a supplier to buy from or sell goods and services to the Region;

**"real property"** for the purpose of this by-law, includes lands, buildings, tenements and any interest, estate or right or easement affecting same;

**"Region" means** The Regional Municipality of Durham;

**“standing agreement”** refers to a master agreement between Durham Region and a supplier for a stated period of time and covering specific goods or services with stated prices, or items of a general category that are covered by a published price list;

**"security"** is a specified dollar amount in the form of cash, certified cheque, bid bond, performance bond, labour and materials bond, letter of

credit or any other form as deemed necessary and stated in the terms and conditions within a tender;

**"standing committee"** means a committee appointed by council;

**"systems contract"** refers to a master agreement between the Region and a supplier to facilitate the re-ordering of repetitive use material and usually involves the supplier carrying inventory;

**"tender"** means a written offer in a specified form received from a supplier in response to a public invitation to supply goods and/or services;

**"total purchase price"** means the sum of all invoice costs.

## 1.2 Interpretations

1.2.1 Words imparting the singular number or the masculine gender only, include more persons, parties or things of the same kind than one and females as well as males and the reverse.

1.2.2 Where an official of the Region is authorized to do any act pursuant to this by-law, such act may be done by such official's authorized delegate.

1.2.3 The headings contained in this by-law are for reference only.

1.2.4 Appendices "A," "B", "C" and "D" attached hereto are hereby incorporated in this by-law.

## 2. Policies

2.1 The Regional Municipality of Durham will acquire its goods, services and works without favoritism through the application of the highest standards of business ethics and ensure best value for the Region.

2.2 This by-law shall be applied and administered, having regard to the provisions of the Region's Budget Management Policy.

2.3 Vendor complaints shall be handled with consideration to fairness and equity for all participants involved. All vendor complaints, whether addressed to councillors or employees, shall be referred to the Purchasing Manager for resolution.

2.4 All objections to a recommendation for award must be in writing. The Purchasing Manager shall review the objection and determine, in consultation with the Region's Legal Department where necessary, whether the objection is material.

2.5 All complaints shall follow the Vendor Dispute Resolution Procedure.

## 3. Authority and responsibilities

3.1 The Commissioner of Finance is hereby given the responsibility of operating a centralized Purchasing Section on behalf of the Region in

accordance with the requirements of this by-law. In carrying out this responsibility the Commissioner of Finance shall authorize the Purchasing Section to act on behalf of the Region in entering into contracts with third parties. The Purchasing Section of the Finance Department will therefore have the following specific responsibilities:

- 3.1.1 The acquisition of goods and services including the leasing, rental or maintenance and support of such goods and services;
- 3.1.2 The development and maintenance of a system of materials management and inventory control methods to maintain an adequate level of staple commodities to support and supply all Regional Departments;
- 3.1.3 The disposal of goods, equipment, supplies, materials and salvage which has been declared surplus by the respective Department Head. When no other use can be found for same by other Regional Departments or other publicly funded bodies in the Region, surplus material is to be disposed of by whatever means deemed appropriate by the Purchasing Section in order to minimize costs, reduce risks and realize the highest return for the Region;
- 3.1.4 The development of cooperative purchasing plans with other levels of government and other local agencies, where deemed beneficial to the Region;
- 3.1.5 The standardization of goods wherever possible;
- 3.1.6 The calling, opening and checking of tenders;
- 3.1.7 The development of detailed systems and procedures dealing with the acquisition, inventory control, and disposal of items detailed in this by-law;
- 3.1.8 The establishment of general terms and conditions used in tenders, proposals and purchase orders in conjunction with the Region's Solicitor.

### 3.2 Regional Boards or Commissions

- 3.2.1 Where the authority to enter into contracts for the purchase of goods or services has been delegated or assigned to a Regional Board or Commission either by council or by statute, such awards shall be made by the Board or Commission in accordance with the intent and provisions of this by-law, without the need for council approval.

## 4. Acquisition process

- 4.1 Each department of the Region shall submit to the Purchasing Section of the Finance Department, purchase requisitions for all applicable goods

and services. All purchase requisitions will be authorized by the Department Head or their designate.

- 4.2 Where a non-repetitive requirement for goods or services is anticipated to have a total estimated purchase price less than \$10,000 and is not covered by a “standing agreement”, departments have the choice of obtaining the requirements themselves using established procedures, or by submitting the requirements to the Purchasing Section of the Finance Department who will obtain quotations. Departments must use the “standing agreements” established for specific goods and services.
- 4.3 Where a requirement for goods or services has an estimated total purchase price of \$10,000 or greater, or where the department expects to or requires making more than one purchase of a similar good or service which will result in a purchase price greater than \$10,000, the Purchasing Section shall: receive quotations, tenders, or proposals; conduct negotiations; evaluate bids; administer procedures; and recommend an award in accordance with the requirements of this by-law and established procedures.
- 4.4 The Purchasing Section shall issue a purchase order or initiate the appropriate contract form for the purchase of all applicable goods and services with an annual or project value greater than \$10,000.
- 4.5 The Purchasing Section may issue “standing agreements” or “contracts” for regularly required goods and services, which establish contract terms and conditions including a variety of pricing formulas.
- 4.6 Departments may release goods or services themselves directly from a supplier against a “standing agreement” which has been established in accordance with this by-law. Such releases are to be made in accordance with established procedures.
- 4.7 Those items listed in Appendix “B” are excluded from competitive bidding.

## **5. Quotations (\$10,000 up to \$100,000)**

- 5.1 For purchases with an estimated annual total purchase price of \$10,000 and less than \$100,000, at least three written quotations shall be obtained by the department wherever possible. Such quotations shall be analyzed and the results tabulated by the department.
- 5.2 Where the quotation meeting specifications and offering the lowest overall cost to the Region is acceptable, an award shall be made, after consultation with the appropriate Department Manager.
- 5.3 The written quotations shall be attached to a purchase requisition when orders are ready to be placed and be saved by the department as per the Records Retention Policy. All orders require a purchase order to be issued by the Purchasing Section through the Region’s financial system.

- 5.4 Where the purchase requires the use of anything other than the Region's standard terms, conditions, or insurance, the Purchasing Section will conduct a more formal quotation process on behalf of the department to ensure best value for the Region.
- 5.5 All quotations shall be conducted using established procedures.

## **6. Tenders**

- 6.1 For applicable purchases with an estimated total purchase price of \$100,000 or greater, tenders will be called. All such tenders are to be called, opened and awarded in accordance with established procedures, including the determination of tender irregularities included in Appendix "A".
- 6.2 The tender shall be advertised on the internet or issued to vendors on the "qualified suppliers" list.
- 6.3 The tender will be issued by the Purchasing Section. Bids will be received electronically, opened and results posted publicly on the Region's bidding website.
- 6.4 A bid Security should be used on all construction tenders and may be used on other tenders at the discretion of the Commissioner of Finance. The amount and form of the security must be satisfactory to the Commissioner of Finance.
- 6.5 Security to guarantee performance and payment should be used on all tenders for work considered an "improvement" under the Construction Act and may be used on other tenders at the discretion of the Purchasing Manager. The amount and form of such securities must be satisfactory to the Commissioner of Finance and meet the Construction Act requirements.
- 6.6 Where the tender meeting specifications and offering the lowest overall cost to the Region is acceptable, an award shall be made in accordance with Appendix "D".

## **7. Direct negotiations and limited tendering**

- 7.1 Direct negotiations may be conducted through the Purchasing Section for emergencies as defined in section 10.0, or under the following conditions:
  - 7.1.1 No tenders submitted or no suppliers requested participation.
  - 7.1.2 Where the lowest bid meeting specifications is excessive in total cost and/or substantially exceeds the estimated costs;
  - 7.1.3 Where all bids received fail to meet the specifications and/or tender terms and conditions;
  - 7.1.4 and provided that the requirements are not substantially modified from that in the tender that was issued.

- 7.1.5 Award of the above negotiations, as well as negotiations for goods and services included in Schedule "B" (Exemptions from Competitive Procurement) will be awarded in accordance with Appendix "D".
- 7.2 Limited tendering (sole/single source purchases)
  - 7.2.1 Unless otherwise provided in this By-law, the requisitioning department in consultation with the Purchasing Manager or designate, may enter into negotiations with one or more vendors for the supply of goods or services for procurements described in Appendix "C" (Circumstances for Sole/Single Source). This must be done following established procedures.
  - 7.2.2 Departments must provide the Purchasing Section with valid justification for procurements described in Appendix "C".
- 7.3 The business case must include all the pertinent facts that give rise to justifying the Single Source or Sole Source procurement and shall be conducted and awarded in accordance with Appendix "D".

## **8. Consulting and professional services**

- 8.1 Notwithstanding the provisions of this by-law, which cover the acquisition of goods and services, the acquisition of consulting and professional services shall be conducted in accordance with the provisions of this section (8).
- 8.2 Consulting and professional services will be acquired on a "quality-based selection" methodology rather than simply the lowest price. Established procedures must be followed and all consulting and professional requirements are to be covered by a written agreement in a form and content satisfactory to the Commissioner of Finance.
- 8.3 Where the project or annual value of a consulting or professional service assignment is expected to be less than \$100,000, the initiating department shall obtain three proposals, where possible, and evaluate the submissions based on price and quality-based criteria. The highest scoring proposal shall be selected and a consulting agreement shall be prepared based on established procedures and executed in accordance with Appendix "D". The written proposals and the executed agreement shall be attached to a purchase requisition when orders are ready to be placed and be saved by the department as per the Records Retention Policy. All orders require a purchase order to be issued by the Purchasing Section through the Region's financial system.

8.4 Where the project or annual value of a consulting or professional service assignment is expected to be \$100,000 or greater, the initiating department shall:

8.4.1 Obtain written proposals through an RFP issued by the Purchasing Section; or

8.4.2 Submit a report to council to obtain approval to acquire the services through a single/sole source negotiation conducted by the department in consultation with the Purchasing Manager or designate as per Section 8.2.

## **9. Proposals**

9.1 Purchases may be made through the use of proposals in those specific situations where a product or service cannot be adequately specified. This would apply to highly technical products or specialty services.

9.2 Where it has been determined that proposals are to be used and the total purchase price is not greater than \$100,000, at least three written proposals shall be obtained using established procedures, by the Department Manager, wherever possible. The initiating Department shall analyze the proposals, tabulate the results and determine an award.

An award memo setting out the results and recommending an award shall be submitted by the Requesting Department to the Department Director. The written proposals shall be attached to a purchase requisition when orders are ready to be placed and be saved by the Department as per the Records Retention Policy. All orders require a purchase order to be issued by the Purchasing Section through the Region's financial system.

9.3 Where it has been determined that proposals are to be used and the total purchase price is \$100,000 or greater, the following procedures shall apply:

9.3.1 A selection committee shall be established consisting of the initiating department representatives, and any other individual(s) who may have an interest or have appropriate expertise. The Purchasing Section shall facilitate the evaluation process.

9.3.2 A request for proposals shall be advertised publicly on the on the Region's bidding website and they shall be received up to the time appointed.

9.3.3 Proposals are to be issued, received, opened and checked for compliance by the Purchasing Section in accordance with the established procedures.



9.3.4 Proposals received shall be analyzed and evaluated by the selection committee and an award determined. An award memo setting out the results and recommending an award shall be submitted in accordance with Appendix "D". Purchasing shall make the award upon approval.

9.4 A summary report for information relating to the award of proposals shall be prepared and submitted to council on a semi-annual basis in accordance with Appendix "D".

## **10. Emergency purchases**

Goods or services required to address an emergency shall be acquired by the Department declaring the emergency. The Purchasing Manager shall be notified of the emergency immediately. Where such emergencies occur outside of normal business hours, necessary purchases may be made by the appropriate Department Head or his authorized delegate, providing the Purchasing Manager is notified of the subject purchase on the opening of the next business day. Should the purchase exceed \$100,000 a report for information is to be submitted to council, setting out the nature of the emergency and the necessity of the action taken pursuant to this clause. Such report shall be submitted to council semi-annually.

## **11. Acquisition of goods and services from government bodies**

Tenders or quotations shall not be required for goods or services to be provided by Utilities, Provincial or Federal Agencies, Crown Corporations, Municipalities, etc., when similar goods or services are not available from other sources.

## **12. Co-operative purchasing**

12.1 The Purchasing Manager may enter into arrangements with area municipalities, local boards and other public bodies or authorities on a co-operative or joint basis where there are economic advantages in so doing providing that under such arrangements:

12.1.1 The method of acquisition used is a competitive method similar to that described in this by-law; and

12.1.2 The awarding and reporting of such contracts are in accordance with Appendix "D" of this by-law and applicable laws and trade treaties.

### **13. Prequalification of suppliers**

- 13.1 Where the Purchasing Manager has authorized the use of a prequalification process it must be conducted in accordance with established procedures.
- 13.2 The Purchasing Section will invite suppliers to apply for inclusion on such lists by publicly advertising the requirements through the Region's bidding website through a Request for Prequalification (RFPQ).
- 13.3 Award shall be made in accordance with Appendix "D" and established procedures.

### **14. Award and reporting procedures**

- 14.1 Notwithstanding the award processes in Appendix "D", the Chief Administrative Officer (CAO) shall approve awards under the following circumstances and a semi-annual report shall be submitted to council for information:

- 14.1.1 Where other than the lowest compliant bid, meeting specifications, is recommended and the bid amount exceeds \$100,000;

- 14.1.2 Where the highest scoring proposal from a compliant bidder is not being recommended and the purchase is worth more than \$100,000.

### **15. Authority and forms of contract**

- 15.1 The Department Manager may authorize the acquisition of goods or services worth up to \$10,000 by telephone or email and confirm the acquisition by a purchase requisition or other authorized means.
- 15.2 The Department Manager may authorize the release of goods or services against "standing agreements" set up in accordance with this by-law using established procedures.
- 15.3 All purchases shall be authorized by purchase order issued by the Purchasing Section, except in those situations noted below:  
  
Where authorized by the Commissioner of Finance, Procurement Cards (PCards) may be used for purchases of low value (less than \$10,000) or contract releases. If PCards are authorized for specific purchases, the PCard Policy and Procedures must be followed.
- 15.4 When a formal contract is required rather than a Regional Purchase Order, a form of contract satisfactory to the Region's Solicitor shall be the form of commitment and shall be executed as per Appendix "D".
- 15.5 Contracts worth more than \$100,000 shall be executed in a form satisfactory to the Region's Solicitor;

15.6 The renewal of existing software licenses and support and maintenance agreements will be awarded without the requirement of council approval and will follow established procedures. Such single source purchases will be executed and reported to council for information on an annual basis as per Appendix "D". In the case of contracts for capital projects, the Department Head may authorize additional payments for unforeseen work up to the limits set in the Budget Management Policy.

## **16. Prohibitions**

### **16.1 Confidentiality**

No employee, or any appointed or elected official, shall divulge the prices paid by or quoted to the Region for goods, works and/or services unless council may otherwise direct, except that the total price in the case of public tenders or the total bid price in the case of quotations may be revealed, as well as any prices included in public reports to committee and council.

### **16.2 Personal purchases**

No personal purchase shall be made by the Region for elected members, or any appointed member of a Board or Commission or for Region employees, unless specifically authorized by the Council of the Regional Municipality of Durham.

### **16.3 Conflict of interest**

No employee or elected official shall bid on the sale of goods except those disposed of by public auction and further, no employee working at or having responsibility for sending items to a public auction may bid on items sold at the auction.

### **16.4 Authority to contract**

No employee or elected official shall purchase or offer to purchase on behalf of the Region except as may be provided for in this by-law.

### **16.5 Splitting requirements**

No requirement for goods or services including consulting or professional services shall be divided to avoid the requirements of this by-law and the total project or annual requirement shall be considered.

16.6 Any employee of the Region who knowingly contravenes this By-law is committing a serious act of misconduct. The Region reserves its right to

take any action at law against the employee for the misconduct including without limitation, disciplinary action up to and including termination.

## **17. Legislation**

17.1 This by-law is subject to any Federal or Provincial legislation and where there is a difference, the subject legislation shall govern.

This by-law is subject to all applicable trade agreements, including Chapter 5 of the Canadian Free Trade Agreement (CFTA), Chapter 19 of the Canada European Union: Comprehensive Economic and Trade Agreement (CETA) and Cooperation Agreement Between Ontario and Quebec.

## **18. Lobbying Restrictions**

18.1 Suppliers, their staff members, or anyone involved in preparing a bid, shall not engage in any form of political or other lobbying whatsoever or seek to influence the outcome of the bid solicitation process or subsequent award. This restriction extends to all staff and anyone involved in preparing a bid solicitation or participating in a bid evaluation process, and members of council.

18.2 The Region may reject any bid by a Supplier that engages in such lobbying, without further consideration, and may terminate that Supplier's right to continue in the bid solicitation process.

18.3 During a bid solicitation process, all communications shall be made through the Purchasing Section. No Supplier or person acting on behalf of a Supplier or group of Suppliers, shall contact any elected official, consultant or any employee of the Region to attempt to seek information or to influence the Award.

18.4 Elected officials shall refer any inquiries about a bid solicitation process to the Commissioner of Finance.

## **19. Vendor performance**

19.1 All contracted vendors must be managed by the contracting Department and performance of the vendor must be monitored and tracked in accordance with established procedures.

19.2 Vendors may be suspended from participating in future procurement processes for a specified period of time in accordance with the Region's Vendor Performance Evaluation Policy.

19.3 A Vendor suspended from participating in future procurement processes has the right to appeal that decision in accordance with the Vendor Dispute Resolution Process.

## **20. Sustainable acquisitions**

20.1 In keeping with the Region's strategic priority of environmental sustainability and climate change, the Region acknowledges the responsibility of promoting sustainable objectives in a manner which includes consideration of social, environmental and economic factors. Departments will endeavour to include specifications in bid solicitations which encourage greater sustainability through consideration of the environmental and social repercussions and long-term impacts of each acquisition as well as consider climate change and environmental sustainability in establishing scoring and evaluation of Requests for Proposals. This will be done where practical and appropriate considering full lifecycle assessments, energy efficient products, reusable products and products that contain maximum recyclable content, accomplished through methods promoting minimum waste, without significantly affecting the intended use of the product or service.

## **21. Unsolicited proposals**

21.1 Unsolicited proposals are proposals and/or communications from a vendor that have not been requested through the regular procurement process, advising the Region of their ability or desire to undertake Region requirements. Unsolicited proposals can be new or innovative ideas that could assist the Region in achieving its goals.

21.2 Region employees or members of council shall not accept an unsolicited proposal and/or communicate with respect to a potential unsolicited proposal. The vendor shall be advised to direct the unsolicited proposal to the Purchasing Section.

21.3 The Purchasing Section will direct the proposal to the appropriate Department Head and Commissioner of Finance, who will assess such proposals on the basis of whether they align with the Region's strategic goals and objectives, do not circumvent the Region's regular procurement processes, and the proposal's scale and scope aligns with the requirements and funding ability of the Region.

21.4 If it is determined that there is a legitimate need for the goods, services and/or construction offered by way of the unsolicited proposal and that funding is available, then the applicable acquisition process will be conducted in accordance with this by-law and any applicable policies and procedures.

## **22. Disqualification of bidders**

22.1 For the purposes of this section, Bidder and Supplier shall be deemed to include any related entity and any partner, principal, director or officer of

such Bidder or Supplier as well as any other legal entity with one or more of the same partner(s), principal(s), director(s) or officer(s).

22.2 The Region reserves the right, in its sole and absolute discretion, not to accept a bid from any Bidder and/or award a contract to any Bidder where one of the following circumstances has occurred within the last five years:

- a) the Bidder or Supplier is or has been involved in litigation with the Region, its elected officials, officers or employees;
- b) the Bidder or Supplier has failed to pay an amount owed to the Region when due and owing;
- c) there is documented evidence of poor performance, nonperformance or default by the Bidder or Supplier in respect to any Region contract, and the Bidder has been made aware of such performance problems in accordance with the Region's policies and procedures;
- d) the Bidder or Supplier has withdrawn its bid on a previous bid solicitation after bids have been opened by the Region;
- e) the Bidder, Supplier or its personnel have demonstrated abusive behaviour or threatening conduct towards Region employees, their agents or representatives;
- f) the Bidder or Supplier has been convicted of any quasi-criminal offence pursuant to applicable legislation or regulations including but not limited to the Occupational Health and Safety Act, as amended, where the circumstances of that conviction demonstrate a disregard on the part of the Bidder or Supplier for the health and safety of its workers, Region employees or the general public.

22.3 In arriving at a determination for the disqualification of a Bidder or Supplier pursuant to this section, the Commissioner of Finance, in consultation with the Department Head and the Region's Solicitor, will consider whether the circumstances are likely to affect the Bidder or Supplier's ability to work with the Region, its consultants and representatives, and whether the Region's experience with the Bidder or Supplier indicates that the Region is likely to incur increased staff time and legal costs in the administration of any dealings with the Bidder or Supplier.

22.4 The Bidder or Supplier may appeal the decision in accordance with the Region's Vendor Dispute Resolution Process.

## **23. Innovation and pilot/testing/proof of concepts**

23.1 In an effort to promote innovation within the Region, departments may identify the need to conduct a pilot, test, or proof of concept in order to determine if an innovative product or service is suitable for the Region or can provide improvement to existing services.

23.2 An approved short-term pilot, test, or proof of concept contract shall be awarded in accordance with Appendix “D” with the involvement of the Purchasing Section. The expenditure must be within an existing approved budget or council approval is required to award a contract.

**24. By-law review**

24.1 The Commissioner of Finance shall review the effectiveness of this By-law at least every five (5) years and report to council as necessary.

**25. By-law repealed**

25.1 By-law numbers 68-2000, 59-2003, 60-2008, 02-2009, 23-2012, 30-2013, 36-2014, 48-2014 and 41-2018 are hereby repealed.

This By-law Read and Passed on the 25th day of March, 2020.

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J. Henry, Regional Chair and CEO

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R. Walton, Regional Clerk

## Appendix "A" to By-law 16-2020

Tendering irregularities

Tender irregularities will be dealt with as specified below:

<b>Irregularity</b>	<b>Response</b>
Late bids	Late bids will not be accepted.
Qualified bids (bids qualified or restricted by an attached or added statement)	Automatic rejection where the qualification is deemed to be material, at the discretion of the Region's Solicitor
Bids received on documents other than those provided in the request	Automatic rejection unless allowed for in the request
<p><b>Bid Surety</b></p> <ol style="list-style-type: none"> <li>1. Bonding company missing when bid bond requested</li> <li>2. Not provided or not in the form specified</li> <li>3. Not in the amount specified</li> </ol>	<p>Automatic rejection.</p> <p>Automatic rejection</p> <p>Automatic unless the insufficiency is de minimus (trivial or insignificant).</p>
Part bids (all items not bid)	Automatic rejection, unless allowed for in the request



## Appendix "A" to By-law 16-2020

Tendering irregularities

Tender irregularities will be dealt with as specified below:

<b>Irregularity</b>	<b>Response</b>
Bids containing minor clerical errors	Two working days to correct and initial errors. The Region reserves the right to waive initialing and accept tender.
Other mathematical errors which are not consistent with unit prices	Two working days to initial corrections as made by the Region. Unit prices shall govern and the tender will be corrected accordingly. The Region reserves the right to waive initialing and accept tender as corrected.
Failure to return the documents as specified	Where complete documents are specified, automatic rejection.
Tender documents which suggest that the tenderer has made a major mistake in calculations or tender	Decision will be on a case by case basis in consultation with the Legal Department
Withdrawal of bids	Withdrawal of bids received after the closing time will not be allowed

## Appendix "A" to By-law 16-2020

### Tendering irregularities

Tender irregularities will be dealt with as specified below:

<b>Irregularity</b>	<b>Response</b>
Tie bids	The Purchasing Manager may use one of the following methods of dealing with tied bids, based upon the specific situation:  <ol style="list-style-type: none"><li>1. Use a coin toss to select a recommended bid</li><li>2. Request the tied bidders to submit new bids</li><li>3. Negotiate with the tied bidders to break the tie</li></ol>
Substantial completion date is not as specified	Two working days to clarify the completion date. The Region reserves the right to waive the clarification of the completion date and accept the tender, or to reject the tender outright.

## **Appendix "B" to By-law 16-2020**

The following items are excluded from the requirements of this By-Law and therefore no competitive bidding is required:

- 1.1 Petty cash
- 1.2 Training and education:
  - 1.2.1 Conferences, courses, conventions and seminars
  - 1.2.2 Magazines, books, periodicals
  - 1.2.3 Memberships
- 1.3 Refundable employee expenses:
  - 1.3.1 Advances
  - 1.3.2 Meal allowances
  - 1.3.3 Miscellaneous - non-travel
  - 1.3.4 Travel and entertainment
- 1.4 Employer's general expenses:
  - 1.4.1 Payroll deduction remittances
  - 1.4.2 Medicals
  - 1.4.3 Licenses (vehicle, firearms, etc.)
  - 1.4.4 Debenture payments
  - 1.4.5 All insurance premiums, payments related to insurance claims, adjusting fees, actuarial services and risk management (pertaining to the Durham Municipal Insurance Pool only).
  - 1.4.6 Grants to agencies
  - 1.4.7 Employee benefit payments and premiums
  - 1.4.8 Building lease payments
  - 1.4.9 Tax remittances
  - 1.4.10 Regional charges to and from area municipalities
  - 1.4.11 Sinking fund payments
  - 1.4.12 Advertising
- 1.5 Professional and special services:
  - 1.5.1 Committee fees
  - 1.5.2 Counselling services
  - 1.5.3 Homemakers services
  - 1.5.4 Laboratory services
  - 1.5.5 Nursing services
  - 1.5.6 Payment to social agencies for purchased services
  - 1.5.7 Funeral homes, doctors, dentists
  - 1.5.8 Temporary help

1.5.9 Banking and underwriting services where covered by agreements

1.5.10 External auditor fees

1.5.11 Goods and services received by welfare recipients

1.5.12 Workers compensation payments

1.5.13 Meter reading services

1.5.14 Legal services

1.5.15 Receivers and bankruptcy trustees

1.5.16 Rail crossing agreements

1.6 Utilities:

1.6.1 Postage

1.6.2 Water

1.6.3 Hydro

1.6.4 Gas

1.7 The acquisition of real property

## Appendix “C” to By-law 16-2020

Circumstances for sole/single source purchases

**Note:** this list of when limited tendering is permitted is exhaustive.

- 1.1 Permitted if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
  - Work of art
  - Protection of patents, copyrights or other exclusive rights
  - Due to an absence of competition for technical reasons
  - Controlled by a supplier that is a statutory monopoly
  - To ensure compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative
  - Work performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work
  - Work performed on leased building or related property, or portions thereof, that may be performed only by the lessor
  - Subscriptions of newspapers, magazines, or other periodicals
- 1.2 Permitted for additional deliveries by original supplier for goods/services not included in initial procurement if a change of supplier cannot be made due to interchangeability/interoperability with existing goods/services from initial procurement **and** would cause significant inconvenience or substantial duplication of costs
- 1.3 Extreme urgency
- 1.4 Commodity market
- 1.5 Mass production of prototype that was developed for the Region
- 1.6 Exceptionally advantageous conditions that arise in very short term, but not for routine purchases e.g. liquidation, receivership or bankruptcy
- 1.7 Winner of a design contest
- 1.8 Procurement is confidential or privileged in nature and disclosure through open process would compromise government confidentiality, waive privilege, cause economic disruption, and be contrary to the public interest

**Appendix "D" to By-law 16-2020**

<b>Estimated procurement value (Canadian funds, exclusive of taxes)</b>	<b>Award approval authority</b>	<b>Authority to execute contracts</b>  (only required if another form of Agreement is used other than a purchase order issued by the Purchasing Section)
Low dollar value procurements  Up to \$10,000	Department Manager or Authorized Delegate	Department Manager
Request for quotations \$10,000 to \$99,999	Department Manager or Authorized Delegate (FIMS Approver)	Commissioner of Finance
Request for proposals (including consulting)  \$10,000 to \$99,999	Department Manager	Department Director  Amendments may be executed by the Department Director when within the BMP limits. When above, Commissioner of Finance will execute and council report for information provided

**Appendix "D" to By-law 16-2020**

<b>Estimated procurement value (Canadian funds, exclusive of taxes)</b>	<b>Award approval authority</b>	<b>Authority to execute contracts</b>
Request for tenders Request for proposals \$100,000 to \$999,999	Department Director and Director of Financial Planning and Purchasing	Commissioner of Finance
Request for tenders Request for proposals \$1,000,000 and greater (including negotiated RPFs)	Department Head and Commissioner of Finance	Commissioner of Finance
Direct negotiations  Where Purchasing conducted a competitive bid and: no bids were received, no bids met the specifications or terms, or all bids were over budget	Department Head and Commissioner of Finance	Commissioner of Finance
By-Law exempt as per Appendix 'B'	Department Director and Director of Financial Planning and Purchasing	Department Director

**Appendix "D" to By-law 16-2020**

<b>Estimated procurement value (Canadian funds, exclusive of taxes)</b>	<b>Award approval authority</b>	<b>Authority to execute contracts</b>
<p>Non-competitive Procurements (single/sole source)</p> <p>Up to but not including \$100,000</p>	<p>Department Director and Director of Financial Planning and Purchasing</p>	<p>Commissioner of Finance</p>
<p>Non-competitive procurements (single/sole source)</p> <p>\$100,000 and greater</p>	<p>Council</p>	<p>Commissioner of Finance</p>
<p>Emergency procurements</p> <p>\$10,000 to \$99,999</p>	<p>Department Director</p>	<p>Department Director</p>
<p>Emergency Procurements</p> <p>\$100,000 and greater</p>	<p>Department Head</p>	<p>Commissioner of Finance with information report to council</p>
<p>All procurement methods resulting in an irregular result</p>	<p>CAO</p>	<p>Commissioner of Finance with information report to council</p>