



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2017-095

A by-law to Adopt and Maintain a Procurement Policy
for the Town of Oakville

WHEREAS paragraph 270(1)3 of the *Municipal Act*, 2001, S.O. 2001, c 25 provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services.

COUNCIL ENACTS AS FOLLOWS:

1. Schedule 1, which is attached to and forms part of this By-law, is the Town of Oakville procurement policy adopted and maintained in accordance with paragraph 270(1)3 of the *Municipal Act*, 2001, c 25.
2. The short title of the By-law shall be the "Procurement Policy By-law".
3. By-law 2016-116 is rescinded.
4. This By-law comes into force on the day it is passed.

PASSED this 23 day of October, 2017

Rob Burton

Mayor

Vicki Tytaneck

Town Clerk

SCHEDULE 1

Procurement Policy By-law

Procurement Policy Statement

The Town of Oakville (hereafter referred to as the town) wishes to establish sound policies for the purpose of procuring supplies and services in a manner that is congruent with providing ethical, professional and accountable delivery of programs and services to the residents of the town, and that shall protect the integrity of the town, the public and the participants in the procurement process.

Procurement Policy Purpose

The Municipal Act, 2001, provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services. Council, the public and the business community shall have confidence in the integrity of the procurement policy and staff involved in the procurement process. The purpose is to ensure:

- objectivity and integrity in the procurement process;
- fair treatment of all bidders;
- openness, accountability, transparency and non-discriminatory access in all business transactions;
- responsible management of the public funds, town finances and assets;
- best value is achieved when procuring supplies and services; and
- timely maintenance of relevant policies and procedures by reviewing this policy, at minimum, within five (5) years of the approval date to evaluate its effectiveness. This review shall be undertaken by an ad hoc committee of directors or designate, the final result of which shall be comprised of a report to Council by the agent. This provision is intended for review purposes only; the failure to conduct a review within the time period set out shall not have an effect on the validity of this policy.

Scope

All employees of the town delegated with the authority to procure shall comply with the Procurement Policy for the Town of Oakville. An employee who knowingly fails to act in accordance with the provisions of this policy will be subject to appropriate disciplinary action, in accordance with the Town's Employee Code of Conduct.

The Procurement Policy shall be read and interpreted in conjunction with the procurement procedures.

References and Related Documents

Canadian Free Trade Agreement (CFTA)
Comprehensive Economic and Trade Agreement (CETA)
Appendix "B" Procurement Policy User Guide
Employee Code of Conduct
Council Code of Conduct
HR-MNG-008 Respectful Conduct Policy
HR-MNG-008-001 R Zone Procedures
Policy MS-ACC-001 Accessibility
Guide to Making Purchases More Accessible
Policy A-ISS-001 Information Technology General Use and Practices
Sustainable Purchasing Handbook
Procedure EN-GEN-001-002 Sustainable Purchasing
By-Law 2012-063 Retention of Records
Financial Control Policy F-FOC-001 and Related Documents
Procedure A-BMG-001-003 Purchasing Card Operating System
Accessibility for Ontarians with Disabilities Act, 2005

Definitions

"Agent" means the manager, Purchasing and Risk Management of the Town of Oakville or designate, in all cases, the manager, Purchasing and Risk Management is the sole authority authorized, save and except the clerk– together with the Mayor or CAO, to execute contract documents on behalf of the town.

"Award Report" is the report generated by authority of the director, using the appropriate reporting template available through corporate templates, in order to obtain approval to award a quotation, tender or proposal.

"Bid" means an offer or submission from a supplier in response to a Request for Quotations, Request for Tenders, Request for Proposals or Request for Supplier Qualifications.

"Bid Security" is a bond or deposit which guarantees that the bidder, if awarded the contract, will accept the contract as bid.

“**Bid Transmittal**” is a form submitted by departments prior to the onset of formal bid activity, providing key information about the project and its proposed funding sources. Transmittals shall be fully approved by the agent and the deputy treasurer and director, Financial Planning or designate prior to the start of the bid process.

“**Bidder**” is a person or corporation that offers a submission in response to a Request for Quotations, Request for Tenders, Request for Proposals or Request for Supplier Qualifications.

“**Bidding System**” is the town’s online web-based solution for issuing bid solicitations and/or receiving online bid submissions and posting bid results.

“**CETA**” means the Comprehensive Economic and Trade Agreement Chapter Nineteen Government Procurement, effective September 21, 2017 and as may be updated from time to time.

“**CFTA**” means the Canadian Free Trade Agreement set out for Government Procurement Chapter Five, effective July 1, 2017 and as may be updated from time to time.

“**Chief Administrative Officer**” (CAO) means the official or designate, appointed by Council, to oversee the administrative management of the town.

“**Clerk**” means the Clerk of the Town of Oakville or designate.

“**Commissioner**” means the head of a commission at the town who oversees a specific corporate commission, or designate.

“**Compliant Bid**” means a bid which correctly and completely responds to all of the requirements that are considered mandatory or important in effect or meaning; as outlined in the bid documents and that the bidder is deemed to be fully capable, technically and financially.

“**Conflict of Interest**” is defined as a situation or circumstance, real or perceived, which could give a supplier or consultant an unfair advantage during a procurement process or compromise the ability of a supplier or consultant to perform its obligations under their contract.

“**Contract**” means a legal agreement between two or more parties, usually written, or a purchase order.

“**Corporate Information System**” (CIS) means the Town of Oakville’s financial information system.

“**Costs**” means the total cost of the goods or service, including contract contingencies plus taxes, less rebates.

“**Council**” means the municipal council of the Town of Oakville.

“Department” means a division of a corporate commission.

“Designate” means the person or persons assigned the duties and responsibilities on behalf or in the absence or incapacity of the person charged with the principal authority to take the relevant action or decision.

“Director” means the head of a specific department of the Town of Oakville, or designate.

“Electronic System” means the Corporate Information System (CIS) used to track all financial transactions within the town.

“Goods” see “Supplies”.

“Halton Cooperative Purchasing Group” or **“HCPG”** means the member municipalities and other public funded agencies within the Region of Halton who participate in cooperative purchasing activities.

“Mayor” means the Mayor of the Town of Oakville or designate.

“Non-Compliant” means a bid that does not correctly and completely respond to all of the requirements that are considered mandatory or important in effect or meaning; as outlined in the bid documents or that the bidder is deemed not to be fully capable, technically and financially.

“Prequalification” is the process of screening potential suppliers in which such factors as financial capability, reputation and experience are considered in order to develop a list of qualified suppliers who may then be allowed to submit bids or proposals, or who may be hired on a rotational basis to fulfill specific requirements or projects.

“Proposal” means a bid from a supplier to provide supplies and/or services, acceptance of which is subject to detailed evaluation and may be subject to further negotiation, also called Request for Proposals (RFP).

“Purchase Card Operating System” also referred to as PCOS, means the town’s corporate credit card system, policies and procedures.

“Purchase Order” means either a purchase order for goods or services under \$25,000 (OU) or a purchase requisition (OR), or inventory replenishment (OS).

“Retention of Records By-law” means By-law 2012-063 Retention of Records, as the same may be amended or replaced from time to time.

“Services” may include, but are not limited to, telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical services, insurance, and the rental, repair or maintenance of equipment, machinery or other personal property.

“Single Source” is a procurement decision whereby purchases are directed to one source of supply, rationalized by a sound business case, even though other competitive sources may be available, or are capable of providing the goods or services within the necessary time frame.

“Sole Source” is a procurement decision whereby purchases are directed to one source of supply as no other source is qualified or capable of providing the goods or services.

“Specifications” means the detailed description of, and written requirements and standards for, supplies and/or services contained in a RFQ, RFT or RFP to the extent known, and also includes any drawings, designs and models.

“Standard Criteria” includes clear and objective evaluation criteria based on duties or services that are normally performed during the contract to which the performance evaluation is relevant.

“Standardization” is the adoption of a single product or group of products to be used at the exclusion of all others.

“Supplier” shall mean the vendor, contractor or consultant who supplies or bids to provide supplies or services to the town.

“Supplies” include goods (as defined by the *Sale of Goods Act*, RSO 1990, c. S.1), wares, merchandise, materials, and equipment used or required by the town.

“Town” means The Corporation of the Town of Oakville.

“Treasurer” means the commissioner of Corporate Services and treasurer of the Town of Oakville or the deputy treasurers of the Town of Oakville as designates.

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1) **ETHICS**

- a) The Ontario Broader Public Sector Supply Chain Code of Ethics is based upon the tenets listed below. All members of Council and all employees who are authorized to procure on behalf of the town are to adhere to the following:

Personal Integrity and Professionalism

All members of Council and employees involved with procurement or other supply chain-related activities shall act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence shall be integral to all supply chain activities within and between Broader Public Sector (BPS) organizations, suppliers and other stakeholders. Respect shall be demonstrated for each other and for the environment.

Confidential information shall be safeguarded. Members of Council and employees shall not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

Accountability, Transparency and Non-Discriminatory Access

Procurement activities shall be open, transparent and accountable. In particular, contracting and procurement activities shall be non-discriminatory, transparent and conducted with a view to obtaining the best value for public money. Public sector resources shall be used in a responsible, economical, efficient and effective manner.

Compliance and Continuous Improvement

All staff should continuously work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.

Further, the Town of Oakville Employee Code of Conduct and Council Code of Conduct shall govern appropriate conduct and decision making within the authority granted under this policy.

In accordance with the Town of Oakville's Employee Code of Conduct and Council Code of Conduct, no member of town staff or Council may receive a personal benefit from any town contract for supplies and/or services or benefit from the very nature of their employment with the town or their being on Council, as the case may be.

2) **RESPONSIBILITIES OF COUNCIL**

- a) Except as provided in Section 10, no committee established by Council, no member of Council and no employee of the town shall enter into any contract on behalf of the town without express authority from Council.
- i) No employee or member of Council of the town shall support, approve, condone or pay for any contract entered into contrary to subsection (a).

- ii) Contracts purported to be entered into in contravention of a) or b) above shall be unenforceable and the requirements of the contract will not be binding upon the Town of Oakville.
 - b) In-house bidding is a process that allows for internal departments to compete with external entities for procurement opportunities. In-house bidding may be used for the procurement of supplies and/or services in circumstances where Council considers it appropriate to do so. Otherwise, in-house bidding shall not be permitted.
 - i) Where Council considers in-house bidding to be appropriate, all potential suppliers shall be advised in the bid documents that in-house departments will be permitted to submit bids.
 - c) The town shall not purchase supplies or service from any employee of the town or member of Council without the express authority of Council.
 - d) Every purchase shall be authorized by Council annually through approved budgets, with the exception of purchases required for emergency situations.
- 3) **RESPONSIBILITIES OF THE TREASURER**
- a) The treasurer and the agent shall operate a centralized procurement division on behalf of the town in accordance with the requirements of this policy.
 - b) The treasurer is hereby authorized to pay for any supplies and/or services purchased by the agent in accordance with this policy, upon receipt of:
 - i) a supplier's invoice or request for payment together with an approved receiving entry by a town employee. Receiving shall indicate that the supplies and/or services have been received against a purchase order, as approved by the director or designate and as set out in the Corporate Policy "Financial Control" which matches in price and terms with the supplier's invoice; or
 - ii) as it pertains to competitive bidding contracts, upon receipt of an authorized payment certificate, either manual or electronic, which matches in price and terms with the signed contract; approved by the director or designate and as set out in the Corporate Policy, "Financial Control".
 - c) The treasurer is hereby authorized to pay for any supplies and/or services purchased in accordance with Schedule "B" to this policy upon receipt of an invoice endorsed by the director or designate as set out in the Corporate Policy "Financial Control" indicating the receipt of such, the price thereof and the appropriate account to be charged.
 - d) The treasurer acts as signing authority as it relates to contracts for supplies or services in the absence of the agent.
 - e) The treasurer shall approve all award reports greater than \$50,000 as detailed in Section 9.

4) **RESPONSIBILITIES OF THE AGENT**

- a) The agent shall have charge of and be responsible for the purchase of all supplies, services and construction required by the town with the exception of those listed in Schedule "B" and Schedule "C". In carrying out this responsibility the agent shall act on behalf of the town in entering into contracts with third parties.
- b) The agent is to monitor compliance with this policy and shall report non-compliance to the director and treasurer.
- c) The agent shall not make or authorize personal purchases for any member of Council or for any employee of the town.
- d) The agent shall collect data and report to the Committee on Government Procurement and to the Secretariat statistics as required for procurement applicable to the thresholds of the CFTA and CETA.
- e) The duties of the agent are set out in Schedule "A".

5) **RESPONSIBILITIES OF THE DEPARTMENT**

- a) Where direct award by user departments is allowed under Section 9, payment may be made by Purchase Card (PCOS).

When payment by PCOS is not viable, a purchase order must be entered in CIS at the time of placing the order or engaging the service, or for greater clarity prior to delivery of supplies or prior to commencement of services from the supplier in order to protect the financial welfare of the town and provide the treasurer with an accurate accounting of the town's finances. Financial reports shall be generated to ascertain adherence to this requirement.
- b) When the purchase of supplies or services is greater than \$10,000 but less than \$25,000, documentation of three bids as required under Schedule "C", shall be attached to the purchase order in CIS. Financial reports shall be generated to ascertain adherence to this requirement.
- c) Where the purchase of consulting and professional services is greater than \$25,000 but less than \$50,000, documentation of three proposals as required under Schedule "C", shall be attached to the purchase order in CIS.
- d) The director shall file with the agent detailed bid transmittal forms for supplies and/or services with a total value exceeding \$25,000 (or for consulting and professional services exceeding \$50,000), detailing departmental requirements in such manner, at such times, and for such future periods as required and agreed with the agent, and including budgetary limit and authorization.

- e) Notwithstanding 5(d), a department may file with the agent in the same manner at any time a bid transmittal for any supply or service under \$25,000.00, the need for which may arise from time to time.
- f) It is important that town staff plan effectively to allow sufficient time to follow the requirements of the procurement policy and to ensure that suppliers have a reasonable period of time to submit a bid in accordance with the time periods set out in the CFTA and CETA.
- g) Every department shall inspect all deliveries of supplies and services to determine whether they meet the specifications set out in the purchase order or contract prior to receiving in the financial system.
- h) Bid documents shall be retained in accordance with the Retention of Records By-law.

6) **COOPERATIVE PURCHASING**

- a) The agent is authorized to participate in cooperative purchasing arrangements with other municipalities, regions, local boards and public agencies within the province when in the town's best interests. In particular, the agent may choose to participate in the cooperative bid calls conducted by the Halton Cooperative Purchasing Group (HCPG), and conduct bid calls on behalf of the HCPG. The agent shall ensure that any procurement conducted through cooperative purchasing is carried out in a manner consistent with the CFTA and CETA.

7) **ACQUISITION OF SUPPLIES/SERVICES FROM OTHER GOVERNMENT BODIES**

- a) The agent may acquire supplies or services from a federal, provincial or municipal body, ministry, agency, board, corporation or authority or in the case of Provincial and Federal Standing Agreements, or other competitive procurement processes, the agent may take advantage of these opportunities if they are deemed to be in the best interest of the town.
- b) The town is the major shareholder of Oakville Hydro and its subsidiaries and therefore it may be permissible, from time to time, for the town to opt to solely procure supplies or services from Oakville Hydro or its subsidiaries, when the town's best interests are served. Any direct award shall be considered Non-Competitive Procurement and shall follow the requirements of Schedule "I".

8) **PURCHASING PROCEDURES**

- a) Sales taxes, excise taxes, value added taxes, duties and shipping shall be excluded in determining the procurement process to be followed.

- b) The dollar values identified in this section represent the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account premiums, fees, commissions and interest and providing for the total value of all possible options.
 - i) No employee of the town shall divide or split a purchase or a contract with the sole intent of avoiding the requirements of this policy or to circumvent the prescribed approval authority dollar limits;
- c) Procurement of supplies and services must be made from suppliers who hold contracts that were entered into by the purchasing division on behalf of the town.
- d) Authority to purchase during emergency events is detailed under Schedule “I”.
- e) Where no contract is available, the following procedures may be used in purchasing supplies and/or services for the town:

| | |
|--|--------------|
| Direct Award by User Department | |
| Informal Quotations / Proposals by Departments | Schedule “C” |
| Request for Quotations (RFQ) | Schedule “D” |
| Request for Tenders (RFT) | Schedule “E” |
| Request for Proposals (RFP) | Schedule “F” |
| Request for Supplier Qualification (RFSQ) | Schedule “G” |
| Consulting and Professional Services Roster | Schedule “H” |
| Non-Competitive Procurement | Schedule “I” |

| Total Procurement Value | Procedure | Mandatory Requirements |
|---|---|--|
| For the Procurement of Supplies or Services: | | |
| <\$10,000 | Direct Award by User Departments | Payment by Purchasing Card (PCOS) or Purchase Order |
| \$10,000 but <\$25,000 | Informal Quotations/Proposals by User Departments | Schedule "C" Purchase Order Manager Approval Required |
| \$25,000 but <\$100,000 | Request for Quotations (RFQ) or Request for Proposals (RFP) by Purchasing Staff | Schedule "D" Schedule "F" Award Report Purchase Order |
| >\$100,000 | Request for Tenders (RFT) and Request for Proposals (RFP) by Purchasing Staff | Schedule "E" Schedule "F" Award Report Purchase Order |
| For the Procurement of Construction: | | |
| <\$10,000 | Direct Award by User Departments | Payment by Purchasing Card (PCOS) or Purchase Order |
| \$10,000 but <\$25,000 | Informal Quotations by User Departments | Schedule "C" Purchase Order Manager Approval Required |
| \$25,000 but <\$250,000 | Request for Quotations (RFQ) or Request for Proposals (RFP) by Purchasing Staff | Schedule "D" Schedule "F" Award Report Purchase Order |
| >\$250,000 | Request for Tenders (RFT) and Request for Proposals (RFP) by Purchasing Staff | Schedule "E" Schedule "F" Award Report Purchase Order |
| For the Procurement of Consulting and Professional Services: | | |
| <\$25,000 | Direct Award by User Departments | Purchase Order |
| \$25,000 but <\$50,000 | Informal Quotations/Proposals by User Departments | Schedule "C" Award Report Purchase Order |

| | | |
|--|--|---|
| >\$50,000 | Request for Proposals (RFP) by Purchasing Staff | Schedule "F" Award Report Purchase Order |
| For Non-Competitive Procurement: | | |
| >\$10,000 | Single Source Sole Source Emergency | Schedule "I" Award Report Purchase Order |
| >\$25,000 | Standardization –purchases based on an approved Standardization Award Report that resulted in a Single Source | Schedule "I" Single Source Award Report Purchase Order |
| >\$25,000 | Purchase Order Increase –where additional work is required to deliver the original approved work | Schedule "I" Award Report Purchase Order Amendment |
| For Contract Renewals: | | |
| >\$25,000 | Optional Year Contract Renewal where provision for such optional year renewal formed part of the original contract | Award Report Purchase Order |
| For Consulting and Professional Services Roster System: | | |
| <\$100,000 | Roster established through Request for Proposals (RFP) Process by Purchasing Staff | Schedule "H" Award Report for > \$25,000 Purchase Order |

9) **APPROVAL OF AWARD REPORTS**

- a) Following the approved award report template;
 - i) The director shall approve award reports greater than:
 - (1) \$25,000 for supplies, services and construction (including standardization), direct roster awards, consulting and professional services, and
 - (2) \$10,000 for all non-competitive procurement (excluding standardization).
 - ii) The agent shall approve all award reports for compliance with the Procurement Policy.
 - iii) The deputy treasurer and director, Financial Planning or designate shall approve all award reports, after review and approval by the Finance Department to confirm budget availability.
 - iv) The treasurer shall approve all award reports greater than \$50,000.

- v) Corporate commissioners for the governing area shall approve all award reports greater than \$50,000, however for non-competitive procurement and roster assignments shall approve all award reports greater than \$25,000.
- vi) The CAO shall approve all award reports greater than \$250,000.
- b) All award reports will be kept within secure files in the Purchasing Division.
- c) A quarterly information report shall be provided to Council detailing contract awards exceeding \$100,000 awarded during the period.

10) **AUTHORITY TO EXECUTE CONTRACTS**

- a) All contracts with a value at or in excess of \$500,000 (including any ancillary document) shall be signed by the CAO and Clerk. Contracts with a value less than \$500,000 (including any ancillary document) shall be signed by the agent.
- b) Contracts signed by persons who are not authorized pursuant Section 10a) above shall be unenforceable and the requirements of the contract shall not be binding upon the Town.
- c) Contracts shall be in a form satisfactory to the town solicitor.

11) **SUPPLIER PERFORMANCE EVALUATION**

- a) A performance evaluation process shall be instituted in contracts where the user department and/or the agent determine that a performance evaluation would be appropriate for the size and/or complexity of the project.
- b) The performance evaluation shall rate the performance of the supplier on standard criteria developed, reviewed and revised from time to time by the agent.
- c) Performance issues while carrying out the project shall be noted in writing by the project leader with a copy to the supplier and a copy to the purchasing division. Performance issues should also be noted in any site meeting or project meeting minutes.
- d) On completion of the project, a final performance evaluation shall be completed by the project leader. The evaluation report shall be reviewed with the purchasing representative, and a copy of the completed evaluation forwarded to the supplier for their records.
- e) Where a supplier is placed on probation or is suspended from bidding on future contracts for the town due to poor performance, the supplier shall have twenty (20) calendar days to request an appeal. Appeal documentation shall be in writing and be forwarded to the agent.

- f) The appeal process shall be conducted by a Dispute Committee which shall hear from both town staff and the supplier at a time and place appointed in writing by the Committee. The Dispute Committee shall be comprised of the treasurer, the deputy treasurer and director, Financial Planning, the agent or designate, and the director of the user department involved. A quorum of the Dispute Committee shall be two of the four members. The decision of the Dispute Committee shall be in writing and it shall be final.
- g) The decision of the Dispute Committee shall determine whether a supplier will:
 - i) be allowed to bid on future contracts or renew a contract with the town;
 - ii) be placed on a probationary term, during which time the supplier shall be permitted to bid or propose work for the town; the work of those on probation will be closely monitored; or
 - iii) be suspended from bidding on any contracts with the town for a one to three-year period as determined by the Dispute Committee, followed by a two-year probationary period after re-instatement.
- h) In reaching a decision, the Dispute Committee shall be entitled to rely upon the evaluation criteria in the performance evaluation and the results of prior performance evaluations relating to other contracts performed for the town by the same supplier.
- i) No bid submission shall be accepted from any supplier, nor shall any purchase order be issued for payment during the term of a suspension unless approved by the agent.
- j) The results of any performance evaluation may be disclosed to other municipalities or government bodies upon request, where it can be demonstrated that the supplier has listed the town as a work reference.
- k) All original performance evaluation reports and documentation will be kept in the purchasing division.

12) **SUPPLIER ELIGIBILITY**

- a) If there is supporting evidence, the town may exclude a supplier (which includes any non-arm's length corporation) on ground such as:
 - i) Bankruptcy or insolvency;
 - ii) false declarations;
 - iii) significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;
 - iv) final judgements in respect of serious crimes or other serious offences;
 - v) professional misconduct or acts of omissions that adversely reflect on the commercial integrity of the supplier;

- vi) failure to pay taxes; or
 - vii) who has a claim or instituted a legal proceeding against the Town of Oakville, or against whom the Town of Oakville has a claim or instituted a legal proceeding with respect to any previous contract, bid submission or business transaction inclusive of those listed as either the proposed general contractor or sub-contractor or vendor within the submitted bid response.
- b) All suppliers providing goods, services or facilities to the town shall, within the stated timeframes, be in compliance with Ontario Regulation 191/11 for the Integrated Accessibility Standards Regulation under the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)* as amended.

13) **NO LOBBYING**

- a) No bidder or potential supplier shall contact any member of Council or any employee of the town to attempt to influence the award of a contract. Any activity designed to influence the decision process, including, but not limited to, contacting any member of Council or employee of the town for such purposes as meetings of introduction, social events, meals or meetings related to the selection process, shall result in disqualification of the bidder for the project to which the influential activity is deemed to be directed.

Notwithstanding the above, this prohibition does not apply to meetings specifically scheduled by the Town of Oakville for presentations or negotiations, or to questions which staff of the purchasing division may pose from time to time, for clarification of the town's requirements.

- b) No bidder who has been awarded the contract shall engage in any contact or activities in an attempt to influence any member of Council or any employee of the town with respect to the purchase of additional enhancements, requirements, options, or modules. However, a contractor may communicate with the agent or the treasurer and with such other persons as authorized by the agent or treasurer, for purposes of administration of the contract during the term of the contract.
- c) The determination of what constitutes influential activity is at the sole discretion of the town, acting reasonably, and not subject to appeal.
- d) At the discretion of the town, any supplier, who violates the provisions of this paragraph, shall be prohibited from any further opportunity to provide goods or services to the town for a reasonable amount of time as determined by the agent.
- e) Staff and members of Council are to adhere to the provisions of the Town's Employee Code of Conduct and Council's Code of Conduct when considering all actions noted above.

14) **NO LOCAL PREFERENCE**

- a) The town will endeavour to achieve the best value in its commercial transactions. As a result, the town will not impose or consider, in the evaluation of bids or award of contracts, local content or other economic benefits criteria that are designed to favour the goods or services of a particular Province or region, nor shall the town practice local preference in awarding contracts unless specifically required to do so under the authority of an upper tier government body. All procurement processes are to be conducted so as not to unduly exclude local vendors while at the same time maintaining the duty to be fair, open and transparent to all bidders.

15) **ENVIRONMENTAL CONSIDERATIONS**

- a) The town, in accordance with Schedule “J”, shall make attempts to preserve the environment and reserves the right to encourage the procurement of supplies and services with due regard to the preservation of the natural environment; suppliers may be selected to supply goods made by methods resulting in the least damage to the environment, and/or to supply goods incorporating recycled materials where practicable. It is to be understood that total lifecycle cost analysis may be required to ensure that these supplies and services are financially viable and available at competitive prices.

16) **ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005 (AODA)**

- a) When purchasing goods, services and facilities it shall be required to incorporate accessibility design, criteria and features except where it is not practicable to do so. This is a requirement of the Integrated Accessibility Standard Regulation (O.Reg.191/11) under the *Accessibility for Ontarians with Disabilities Act 2005*.
- b) When preparing the specifications, the user department shall be knowledgeable of the *Accessibility for Ontarians with Disabilities Act 2005* and its regulations and the Oakville Universal Design Standards for town facilities as amended and apply those requirements with respect to procuring goods, services and/or facilities, and in the development of the specifications.

17) **BID IRREGULARITIES**

- a) A bid irregularity is a variance between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response. The procurement procedures shall outline classifications for bid irregularities and the resulting consequence.
- b) If, in the opinion of the agent, any bidder has underestimated the value of the goods and/or services to be provided as reflected in its bid price/fee, the agent may reject the bid as unbalanced (i.e., not representative of the scope of the supplies and/or services).

18) **BID REVIEW PROCEDURES**

- a) The town shall provide a timely, transparent, and non-discriminatory administrative and judicial review procedure through which a supplier may challenge a breach of the requirements of the CFTA and/or CETA.
- b) The supplier shall per permitted 10 days to file a dispute from the time when the basis of the challenge became known or reasonably should have become known to the supplier.
- c) An adhoc review committee consisting of the agent, the departmental director and the town solicitor or their approved designates shall review such challenge.
- d) Findings shall be issued to the supplier in writing within 90 days after filing of its dispute, unless an extension of time is warranted due to extenuating circumstances, in which case the findings will be issued within 135 days after the filing of the dispute.
- e) The town and the supplier shall seek to resolve the dispute through consultations.
- f) The town will establish an impartial authority that is independent of the town to receive and review a dispute that cannot be resolved between the parties through consultation.
- g) If a review body has determined that there has been a breach, compensation is limited to the costs of the preparation of the bid submission, or the costs relating to the challenge, or both. If the parties cannot agree upon the fair and reasonable amount of such costs, their quantum may be referred to the review body for determination. The costs to be borne by the party that is unsuccessful in the challenge.

SCHEDULE "A"
DUTIES OF AGENT

- 1) The agent, subject to and in accordance with the provisions of the Procurement Policy, shall:
 - a. Have charge of and be responsible for the organization, establishment, compliance and maintenance of a centralized purchasing system.
 - b. Attempt to procure for the town the most appropriate supplies and services having regard to achieving best value for the town.
 - c. Attempt to obtain full and open competition on all purchases whenever possible.
 - d. Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the town the benefits of research done in the field of purchasing by other government bodies, technical societies and trade associations having national recognition, and by private businesses and organizations.
 - e. Group, correlate and unify the requirements of the departments of the town, and by standardization reduce the type of supplies and services used to the minimum number consistent with the needs of each department. This standardization shall be a joint cooperative program among the departments of the town, with the agent being responsible for its implementation.
 - f. Explore the possibilities of buying in bulk so as to take full advantage of discounts.
 - g. Interview sales persons and refer them to other departments where technical information is required.
 - h. Visit suppliers when necessary to expedite deliveries, inspect facilities, goods or supplies, or establish goodwill.
 - i. Apply all Federal and Provincial tax exemptions to which the town is entitled.
 - j. Cooperate with other departments of the town to secure maximum efficiency in budgeting and accounting.
 - k. Prescribe and maintain forms and/or systems necessary for the operation of the centralized purchasing system.
 - l. Attend to all matters pertaining to customs and excise in the import or export of supplies on behalf of the town.
 - m. Execute on behalf of the town, purchase orders in a form satisfactory to the Town Solicitor.

- n. Execute on behalf of the town, all contracts for the purchases of goods or services other than those which require execution by the Mayor and Clerk.
- o. Maintain care and control of all original copies of contracts and their accompanying documents (i.e. performance bonds, insurance, etc.) within the appropriate and secure files of the Purchasing Division.
- p. Ensure all competitive processes and activities are in compliance with all applicable town policies and by-laws, any specific provisions of the Municipal Act, 2001 and all other relevant Provincial or Federal legislation, as may be in effect from time to time.
- q. Documents shall be retained in accordance with Retention of Records By-law.

SCHEDULE “B”

EXCEPTIONS FROM REQUIREMENTS OF PURCHASING PROCESS

- 1) Competitive Bidding processes are not required for the following categories. The listing below is not a comprehensive listing, and the agent will from time to time review and approve new situations or items to determine if they fall within the purview of this schedule. For exceptions outside of this schedule the agent may request the user department follow the requirements of Schedule “I” – Non-Competitive Procurement.

The treasurer is hereby authorized to pay for any supplies and/or services purchased in accordance with Schedule “B” upon receipt of an invoice endorsed by the director or designate as set out in the Corporate Policy “Financial Control” indicating the receipt of such, the price thereof and the appropriate account to be charged.

- a. **Petty Cash Items** - Maximum \$50 per transaction
- b. **Training / Education / Professional Development** – paid via PCOS or Cheque Requisition
 - i. Conferences / Conventions / Courses / Seminars / Workshops - If employee paid, reimbursement will be made through payroll
 - ii. Magazines / Periodicals / Subscriptions
 - iii. Memberships
 - iv. Corporate staff development, workshops and training including all related, equipment, resources, supplies, trainers, coaches and speakers
- c. **Refundable Employee Expenses** – reimbursed through payroll
 - i. Meal allowances
 - ii. Miscellaneous – non-travel
 - iii. Travel expenses
 - iv. Entertainment expenses
- d. **Corporate General Expenses**
 - i. Payroll and Benefit Premiums and remittances
 - ii. Recruitment services
 - iii. Public employment contracts
 - iv. Advertising in newspapers, radio, television, etc.
 - v. Employee Medicals
 - vi. Medical Direction of Oakville Fire –Provincially appointed
 - vii. Medical or other Investigative Services

- viii. Ongoing Licences– including Hardware and Software Licences and maintenance contracts
- ix. Debenture payments
- x. Insurance premium payments, claim settlements and adjuster services
- xi. Grants to agencies
- xii. Damage claims
- xiii. Petty cash replenishment
- xiv. Tax remittances
- xv. Property tax refunds
- xvi. Workplace Safety and Insurance Board (WSIB) remittance
- xvii. Building/Development permit refunds and deposit returns
- xviii. Charges to or from other government agencies with approval from Finance, including;
 - (1) Regional Permits
 - (2) Cross Boundary Agreements
 - (3) Fire Dispatch Agreements
 - (4) Radio Trunking License
 - (5) Vehicle Licensing
 - (6) Police Services
- xix. Real Estate transactions including the acquisition or rental of land, existing buildings, or other immovable property or the rights thereon
- xx. Bank charges
- xxi. Development Charges and Cash in Lieu refunds
- xxii. Brokerage Fees
- xxiii. Commissions
- xxiv. Taxi Services
- xxv. Recreation program/facility refunds
- xxvi. CCI Ontario Presenting Network (Oakville Centre Performing Arts)
- xxvii. Committee Fees

e. Professional and Special Services

- i. Counselling services
- ii. Legal counsel and professional and expert services as required and authorized by the town solicitor or designate

- iii. Legal counsel and professional and expert services for employment and labour law matters as required and authorized by the director, Human Resources or designate
- iv. Arbitrators, Mediators and Investigators
- v. Acquisitions from philanthropic institutions, non-profit organizations, prison labour or natural persons with disabilities
- vi. Financial services respecting the management of government financial assets and liabilities (*i.e.* treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution
- vii. Appraisal charges
- viii. Land survey costs where competitive bids are not able to be obtained
- ix. Hiring of consultants or contractors to complete project deficiencies or complete the work of a developer where the developer has abandoned the project or is negligent in completion and where funds to complete the work are being drawn from deposits held by the town and where time does not permit a competitive bidding process
- x. Special Events - performers, artists, speakers, facility rental, catering, equipment, resources and supplies
- xi. Honorarium where a Social Insurance Number shall be provided
- xii. Providers of artistic and recreational services, such as instructors, dance/yoga/gymnastic teachers, historical experts, artistic designers, health and appearance therapists, skate sharpening services

Staff engaging Professional & Special Services listed under Section e (i. to viii.) is responsible to request proof of commercial general liability insurance and certificate of good standing with WSIB and keep all documentation current until completion of the work. Exceptions must be pre-approved by the agent.

f. Utilities

- i. Servicing and requested plant modifications / relocations related to construction
- ii. Postage and Courier Services
- iii. Water and Sewage
- iv. Hydro
- v. Gas
- vi. Telephone (basic services), Cellular and Wireless Devices
- vii. Service relocations when required by a designate authority, e.g. Union Gas, Oakville Hydro
- viii. Cable or CCTV Television Charges

- ix. Radio system licensing
- x. Services and Inspection of the Technical and Safety Standards Association (TSSA)
- xi. Other regulated authorities operating within and across municipal right of ways (e.g. CN Rail, GO Transit, Bell Canada)

SCHEDULE "C"

INFORMAL QUOTATIONS / PROPOSALS BY DEPARTMENTS

- 1) For procurement of supplies, services and construction from \$10,000 – up to but not including \$25,000 and for procurement of consulting and professional services from \$25,000 – up to but not including \$50,000, the process shall be conducted in the following manner:
 - a. user departments shall utilize all applicable town contracts where available;
 - b. a minimum of three compliant bids/proposals (from three separate suppliers) shall be obtained by the user department in written communication (a "No Bid" response shall not be considered a valid bid);
 - c. staff are encouraged to seek more than the minimum three bids and to vary the selection of bidders to ensure a more competitive process;
 - d. staff shall refer to the suspended vendor list before invitations are sent;
 - e. all bidders shall receive the same request information, terms and conditions;
 - f. staff shall utilize templates provided by the purchasing division;
 - g. award for quotations shall be to the lowest compliant bid, award for proposals to the highest ranked compliant proposal;
 - h. bids/proposals shall be kept on file in the user department in accordance with the Retention of Records By-law.
- 2) The agent may waive the requirement for three bids, where the user department has demonstrated to the satisfaction of the agent that three bids could not be obtained.
- 3) Informal request for proposals should be issued in the same manner as the Request for Proposals (RFP) procedure as outlined in Schedule "F".
- 4) A purchase order is required and bid information shall be attached. Any contract document, other than a purchase order, shall be reviewed and executed by the agent.
- 5) For services and construction the user department shall ensure the following documentation is received:
 - a. a Certificate of Insurance naming the Town of Oakville as additional insured providing proof of commercial general liability of not less than \$5,000,000 (limits less than \$5,000,000 may be approved by the agent); and
 - b. a certificate of good standing with the Workplace Safety and Insurance Board (WSIB) demonstrating the supplier has complied with the requirements and that all requisite premiums under the Act have been paid.
 - c. The user department shall contact the agent for assistance when required.
- 6) The agent shall monitor the requirements set out in Schedule "C" and shall report non-compliance to the director and treasurer.

SCHEDULE "D"

REQUEST FOR QUOTATIONS (RFQ)

- 1) For procurement of supplies and services from \$25,000 – up to but not including \$100,000; and for procurement of construction from \$25,000 – up to but not including \$250,000, the process shall be conducted in the following manner:
 - a. the director shall file a bid transmittal with the agent prior to start of the quotation process;
 - b. quotations may be advertised publicly using the Bidding System, or sent directly to suppliers by invitation only as agreed between the user department and the agent;
 - c. where bids are sent directly to suppliers by invitation, staff are encouraged to seek more than the minimum three bids and to vary the selection of bidders to ensure a more competitive process;
 - d. every department shall provide technical assistance in the preparation of the quotation specifications, drawings, etc.;
 - e. purchasing staff shall prepare the bid documents and shall attempt to obtain a minimum of three bids where possible, however may seek more than the minimum three bids to ensure a more competitive process;
 - f. quotation responses shall be received using the Bidding System or other such method at the discretion of the agent.
- 2) Quotations shall be awarded to the lowest compliant bid meeting all requirements specified in the quotation document.
- 3) If two or more compliant bids are submitted in the same amount, bidders will be allowed 24 hours to re-examine their bids to determine if there are any cost savings that may be passed on to the town. If this effort is unsuccessful, then a tie break method will be held to determine the successful bidder. The outcome of the tie breaking method is final.
- 4) The town may but shall not be required to award or accept a quotation, and may choose to either cancel the call for quotations or recall the quotations at a later date:
 - a. when only one bid has been received;
 - b. when the lowest compliant bid exceeds the available project budget for the supplies or service;
 - c. when all bids received are non-compliant with the specifications or quotation terms and conditions.
- 5) The agent shall award the contract upon receipt of an approved award report.
- 6) Where an award is being made to the lowest compliant bid, but the bid exceeds the current approved budget the award shall be approved and reported as required in the Financial Control Policy.

- 7) A purchase order shall be created and a contract shall be executed if required.
- 8) Award reports and executed contracts shall be kept within secure files in the Purchasing Division in accordance with the Retention of Records By-law.

SCHEDULE "E"

REQUEST FOR TENDERS (RFT)

- 1) For procurement of supplies and services with an estimated value greater than \$100,000; and for the procurement of construction with an estimated value greater than \$250,000, an open competitive procurement process shall be processed in the following manner:
 - a. the director shall file a bid transmittal with the agent prior to start of the tender process;
 - b. purchasing staff shall prepare the formal tender documents including clear instructions, specifications, terms and conditions of the contract;
 - c. every department shall provide technical assistance in the preparation of the tender specifications, drawings, etc.;
 - d. tenders shall be advertised using the Bidding System for a minimum of ten (10) calendar days preceding the closing date for tenders;
 - e. tenders covered under CETA legislation shall be advertised using the Bidding System for a minimum of twenty-five (25) calendar days preceding the closing date for tenders;
 - f. the requirement for advertising twenty-five (25) days under item e. may be reduced to ten (10) calendar days provided;
 - i) a prequalification has been issued in advance, or
 - ii) a notice of planned procurement has been posted using the Bidding System at least forty (40) calendar days (and not more than 12 months) in advance of the tender posting.
 - g. the town shall advertise tenders on any designated electronic Canada-wide single point of access (SPA) as directed by the Government of Canada.
- 2) Tenders shall have a specified closing date and time. Tenders received after the set closing date and time will not accepted.
- 3) Tenders shall be awarded to the lowest compliant bid meeting all requirements specified in the tender document.
- 4) If two or more compliant tenders are submitted in the same amount, bidders will be allowed 24 hours to re-examine their bids to determine if there are any cost savings that may be passed onto the town. If this effort is unsuccessful, then a tie break method will be held to determine the successful bidder. The outcome of the tie breaking method is final.
- 5) The town may but shall not be required to award or accept a tender, and may choose to either cancel the call for tenders or recall the tenders at a later date:
 - a. when only one tender has been received as the result of a tender call;

- b. when the lowest compliant tender exceeds the available project budget for the supplies, service or construction;
 - c. when all tenders received fail to comply with the specifications or tender terms and conditions; or
 - d. when a material change in the scope of work or specifications is required.
- 6) The agent, following the approval of the required tender award report, shall notify the successful bidder of the town's intent to award the contract. Should a report to Council respecting the award of the contract be required, the report shall remain confidential until it is distributed to Council.
- 7) Where a formal contract is required, it shall be submitted, at the time of notification, to the successful bidder for execution.
- 8) Where a bidder has been notified of the town's intent to award the contract, and the successful bidder fails to execute the contract or to provide any other required documents within the specified time, the agent may:
- a. grant the successful bidder additional time to fulfill the requirements;
 - b. award the contract to the second lowest bidder; or
 - c. cancel the Request for Tenders.
- 9) Where an award is being made to the lowest compliant bid, but the bid exceeds the current approved budget the award shall be approved and reported as required in the Financial Control Policy.
- 10) Award reports and executed contracts shall be kept on file with the bid documents in the Purchasing Division in accordance with the Retention of Records By-law.
- 11) The town shall publish an award notice using the Bidding System.
- 12) Changes or modifications to the terms and conditions of the contract, including changes that result in an increase in price shall be documented by the agent on the purchase order and in the contract file.

SCHEDULE "F"

REQUEST FOR PROPOSALS (RFP)

- 1) Request for Proposals are used where comprehensive technical specifications cannot be fully defined or specified, or when alternate methods are being sought to perform a certain function or service. Requests for Proposals are also used to procure consulting and professional services.

- 2) Request for Proposals shall be processed in the following manner:
 - a. the director shall file a bid transmittal with the agent prior to start of the proposal process;
 - b. purchasing staff shall prepare the RFP documents including clear instructions, project scope/outcome and/or requirements, terms and conditions of the contract;
 - c. every department shall provide technical assistance in the preparation of the proposal documents upon request;
 - d. mandatory requirements shall be clearly articulated and any proposal that fails to meet these mandatory requirements shall be deemed non-compliant;
 - e. proposal documents shall clearly outline the technical and pricing evaluation criteria and applicable weighting assigned that will form the basis of contract award;
 - f. proposals valued over \$100,000 shall be advertised using the Bidding System for at least ten (10) calendar days preceding the closing date for proposals;
 - g. proposals covered under CETA legislation shall be advertised using the Bidding System for at least twenty-five (25) calendar days preceding the closing date for proposals;
 - h. the requirement for advertising twenty-five (25) day under item g. may be reduced to ten (10) calendar days provide;
 - i) a prequalification has been issued in advance, or
 - ii) a notice of planned procurement has been posted using the Bidding System at least forty (40) days (and not more than 12 months) in advance of the proposal posting.
 - i. the town shall advertise proposals on any designated electronic Canada-wide single point of access (SPA) as directed by the Government of Canada.
 - j. RFP evaluation committee members shall be determined prior to the closing time of the Request for Proposals, and
 - i) are responsible to fully review each submission and complete the evaluation matrix as provided; and
 - ii) must hold all contents of the proposal submissions in strict confidence, and
 - iii) shall be required to sign a confidentiality and conflict of interest statement as it relates to the process.

- 3) Proposals shall have a specified closing date and time. Proposals received after the set closing date and time will not be accepted.
- 4) Proposals shall be awarded to the highest ranked compliant submission meeting all mandatory requirements set out in the related proposal document.
- 5) The town may but shall not be required to award or accept a proposal, and may choose to either cancel the call for proposals or recall the proposals at a later date:
 - a. when only one proposal has been received as the result of a call for proposals;
 - b. when the highest ranked proposal exceeds the available project budget for the supplies or service;
 - c. when all proposals received fail to comply with the mandatory terms and conditions;
or
 - d. when a material change in the scope of work or specifications is required.
- 6) The agent, following the approval of the required proposal award report, shall notify the successful proponent of the town's intent to award the contract. Should a report to Council respecting the award of the contract be required, the report shall remain confidential until it is distributed to Council.
- 7) Where a formal contract is required, it shall be submitted, at the time of notification, to the successful proponent for execution.
- 8) Where a proponent has been notified of the town's intent to award the contract, and the successful proponent fails to execute the contract or to provide any other required documents within the specified time, the agent may:
 - a. grant the successful proponent additional time to fulfill the requirements;
 - b. enter into negotiations with the next highest ranked proponent; or
 - c. cancel the Request for Proposals.
- 9) Where an award is being made to the highest ranked bid, but the bid exceeds the current approved budget the award shall be approved and reported as required in the Financial Control Policy.
- 10) All executed contracts shall be kept on file with the proposal documents in the Purchasing Division including all individual and consensus scoring documents.
- 11) On request, the town shall provide an unsuccessful proponent with an explanation of the reasons why the town did not select its proposal.
- 12) The town shall publish an award notice using the Bidding System.
- 13) Changes or modifications to the terms and conditions of the contract, including changes that result in an increase in price shall be documented by the agent on the purchase order and in the contract file.

SCHEDULE "G"

REQUEST FOR SUPPLIER QUALIFICATION (RFSQ)

- 1) The purpose of a Request for Supplier Qualification (prequalification) is to ensure that each supplier bidding to perform work for the town can demonstrate its ability to provide the necessary expertise and resources to satisfactorily complete the work required.
- 2) Purchasing staff shall prepare the prequalification documents including specific criteria which are used to collect information from and to identify qualified suppliers in advance of one or more expected future projects. Information may include such things as:
 - a. previous experience if essential to meet the project requirements);
 - b. capacity to fulfill the contract requirements; and
 - c. the facilities and/or equipment to perform the work.
- 3) Only the prequalified suppliers shall be invited to respond to a subsequent Request for Quotations, Request for Tenders or Request for Proposals.
- 4) RFSQ documents shall be advertised using the Bidding System for a minimum of ten (10) calendar days preceding the closing date for submissions. Where subsequent procurement is covered by CETA legislation, it shall be advertised for twenty-five (25) calendar days.
- 5) RFSQ documents are issued in the same manner as the Request for Proposals, Schedule "F", and should specifically define:
 - a. the type of supplies or services included as part of the process;
 - b. the number of potential projects and upper limits to the value of future awards;
 - c. the time duration the list of prequalified vendors is to be valid, which shall be three (3) years or less;
 - d. windows of opportunity throughout the time duration should be identified so new suppliers may apply to be prequalified;
 - e. that suppliers who do not participate in the prequalification or do not appear on the list may be excluded from bid opportunities.
- 6) An RFSQ may follow a number of formats, each to be determined based on the requirements to be fulfilled and the type of procurement to follow, but in all cases shall be used according to the procedures as outlined in the RFSQ document.
- 7) The agent shall ensure that the terms and conditions of the RFSQ document contain specific language to disclaim any obligation on behalf of the town to call on any supplier as a result of such prequalification.

SCHEDULE "H"

CONSULTING AND PROFESSIONAL SERVICES ROSTER

- 1) It may be determined by the director and the agent that it would be beneficial to develop a Roster for consulting and professional services. A Request for Proposals (RFP) process in accordance with Schedule "F" shall be used to select firms who are interested in supplying services if, as and when requested. The Request for Proposals document should specifically define the type of services included as part of the process, typically segmented by consulting discipline.
- 2) Request for Proposals shall be processed in the following manner:
 - a. Purchasing staff shall prepare the RFP documents including clear instructions, project scope/outcome and/or requirements, terms and conditions of the contract.
 - b. Proposal documents shall clearly outline the technical and pricing evaluation criteria and applicable weighting assigned that will form the basis of Roster award.
 - c. Proposal documents shall clearly indicate the time duration the Roster is to be valid, the method and timing by which firms can be placed on the Roster.
- 3) Proposal documents shall be advertised using the Bidding System for at least twenty-five (25) calendar days preceding the closing date for proposals. RFP selection committee members, who
 - a. are responsible to fully review each submission and complete the evaluation matrix as provided;
 - b. must hold all contents of the proposal submissions in strict confidence; and
 - c. shall be required to sign a confidentiality and conflict of interest statement as it relates to the process.
- 4) The highest ranked firms shall be placed on the Roster in accordance with the proposal terms and conditions. Once a roster is established, projects may be presented to firms on a rotational basis as well as a "best fit" basis for projects less than \$100,000.
- 5) Projects shall be awarded fairly to all consultants on the Roster. The director shall ensure roster awards are recorded, and that there is a reasonably equitable distribution of the work.
- 6) A consulting roster award report is required for each roster assignment greater than \$25,000.

SCHEDULE "I"

NON-COMPETITIVE PROCUREMENT

- 1) In certain infrequent and/or unique circumstances, the town may not have the ability to go through a competitive process for its procurement activity. In specific reference to Schedule "I", the following are types of direct awards:
 - a. Single Sourcing – where purchases are made through a selected supplier, even though there are other suppliers that provide similar supplies or service.
 - b. Sole Sourcing – where there is only one available supplier for the source of the supplies or service.
 - c. Purchase Order Increase – represents additional work that is required to address an unexpected problem or unforeseen circumstances and is required to deliver the original approved work and not expand the original scope of the project.
 - d. Standardization - is the adoption of a single product, service or support activity to be used by one department or a number of departments, whereby a particular supplier may be identified based on technical specifications, and sourced to the exclusion of others. This process will allow for a reduction in the number of supplies and services required, maximize volume buying opportunities, reduced handling, training and storage costs.
 - e. Where a bid has been publicly advertised and no submissions were received, no bids conformed to the essential requirements of the bid document or no suppliers satisfied the conditions for participation.
- 2) For non-competitive procurement under section 1), the director shall initiate a single source award report including rationale for requesting non-competitive procurement prior to making a commitment to a supplier or prior to commencing any work. The agent shall be involved and guide any negotiation process to ensure the town employs fair and ethical practices.
- 3) Emergency - when an event occurs that is determined by the Chief Administrative Officer, commissioner or a director to be a threat to public health, the maintenance of essential town services, the welfare of persons or of public property, the protection of the town's physical assets, or the security of the town's interests or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of supplies or service. The director may make such purchases without the involvement of the agent and/or a competitive bidding process, and is authorized to do so in the most expedient and economical means possible. When feasible, the agent shall be contacted to assist in obtaining quotes, securing services and issuing purchase orders.
 - a. Authority to purchase during emergency events shall be as follows:

| Total Procurement Value | Delegated Procurement Authority Level |
|------------------------------------|--|
| < \$100,000 | Director |
| ≥\$100,000 but less than \$250,000 | Commissioner |
| ≥\$250,000 | CAO |

- b. In the case of a declared emergency the Town of Oakville Emergency Plan will supersede this By-law.
 - c. The emergency award report shall detail the cause of the emergency and the action taken to resolve the emergency and shall be submitted for approvals within two working days following the resolution of the emergency. Where the emergency situation may be prolonged, the director shall contact the agent to determine the course of action moving forward.
- 4) Any executed contracts shall be kept on file with the single source award report in the purchasing division.
 - 5) All non-competitive procurement greater than \$100,000 shall be awarded on the Bidding System as required by the CFTA.

SCHEDULE “J”

ENVIRONMENTAL SOURCING AND PROCUREMENT

- 1) Staff are encouraged to consider environmentally responsible and sustainable products and services as part of their purchasing decisions under the Environmental Sustainability Policy, EN-GEN-001, the Sustainable Green Fleet Procedure, EN-GEN-001-001, the Sustainable Purchasing Procedure, EN-GEN-001-002 and other approved and relevant corporate policies and procedures as they are developed. The objectives of environmental sourcing are to:
 - a. Provide an environmental role model for public procurement by making it a priority to use environmentally responsible products and services, where feasible and cost effective;
 - b. Support a healthier working environment for employees and for citizens in general through the purchase of environmentally preferable goods and services;
 - c. Increase demand for environmentally responsible products and services, which may ultimately enhance quality and cost competitiveness; and
 - d. Increase the conservation of resources through the use of more reusable products, and/or products and services that require less energy and materials to produce or use.
- 2) The procurement needs of the town represent a significant level of responsibility to demonstrate leadership and support for greener business practices. Integrating environmental performance and impact into supply chain decisions is a commitment to improvement of the environment and the quality of life of Town residents. Guidance on sustainable purchasing decision-making can be found in the town’s Sustainable Purchasing Handbook.
- 3) Green procurement shall be viewed in the context of achieving value for money for the total life-cycle costs. It requires the inclusion of environmental impact considerations into the procurement process, including planning, acquisition, use and disposal. Value for money shall include the consideration of many environmental tangible and intangible factors when determining the total life-cycle costs and environmental impact.
- 4) The factors noted above require an understanding of the environmental aspects and potential impacts associated with the life- cycle assessment of goods and services being acquired. The life-cycle approach shall examine costs beyond the up-front acquisition cost of goods or services, such as costs associated with operating, maintaining and disposing of the goods. Environmental considerations include, among other things: the reduction of greenhouse gas emissions and air contaminants; improved energy and water efficiency; reduced waste and support of reuse and recycling; the use of renewable resources; reduced hazardous waste; and reduced toxic and hazardous substances.

- 5) Assessment of life-cycle costs will commonly require input from a broad range of sources including program managers, project authorities, procurement authorities, operational users, environmental and disposal experts, cost accountants and financial management advisor, and standards organizations. Dialogue with the supplier community can also be useful to find out what is available and to inform the market of future requirements. Care should be taken not to distort competition — this process should not give any advantage to particular suppliers.

- 6) Activities to support green procurement should be incorporated during each stage of the procurement process. The following table outlines opportunities to integrate such considerations:

Recommended Framework: Green Procurement Considerations

| Procurement Step | Traditional Focus Areas | Green Focus Areas |
|---|---|---|
| Step 1 Assess Opportunity | Spend analysis focuses primarily on materials and logistics costs | Spend analysis encompasses direct and indirect environmental costs (e.g., energy consumption, disposal, packaging waste, water) |
| Step 2 Assess Internal Supply Chain | Specification focused, map current process and identify process opportunities | Specification review and design considers industry’s environmentally sound products and services |
| Step 3 Assess Supply Market | Identify potential sources of supply and perform supplier assessments/comparisons | Supply base includes suppliers who specialize in more efficient and sustainable products (e.g., possible commodity substitutions and new manufacturing processes) |
| Step 4 Develop Sourcing Strategy | Confirm scope, determine desired outcomes and brainstorm process enhancement | Sustainability considerations and criteria are specified in the RFP document (e.g., energy, disposal, water usage costs may be solicited from suppliers for analysis) |
| Step 5 Implement Strategy | Develop/implement supplier solicitation strategy, conduct supplier negotiation and award contract | Bid analysis quantifies cost/benefits of sustainability attributes (e.g., energy consumption, carbon footprint or waste) |
| Step 6 Institutionalize Strategy | Transition to new process, develop supplier relationships, implement operation changes and monitor/report performance | Sustainability attributes closely tracked and audited |

- 7) Procurement measures such as purchasing environmentally responsible products and supplies as well as adopting pollution prevention criteria when purchasing goods, services and construction are examples of initiatives to advance sound environmental management for organizational operations. Other examples of green procurement would include identifying or sourcing products and services that:
- a. Make efficient use of natural resources including land, air, energy and water;
 - b. Minimize waste by limiting purchases and packaging while increasing our waste diversion rates;
 - c. Are made of high quality materials that can be repaired or upgraded;
 - d. Minimize toxicity;
 - e. Are made from renewable or recycled materials;
 - f. Contain reusable parts or reusability;
 - g. Protect indoor and outdoor air quality.
- 8) The agent and the director shall be in a position to demonstrate value for money in awarding the contract, i.e., the contract should be awarded to the proponent offering the best combination of costs, quality and performance to meet that requirement over its life cycle. The requirement for environmentally friendly products should also be tested for need, affordability and cost-effectiveness in the context of the Town of Oakville's Green Procurement mandate and overall program objectives.
- 9) A clear definition of the technical requirements including the environmental outcomes to be achieved, terms and conditions, including environmental terms such as use of certified recyclers, mandatory requirements and bid evaluation criteria, as applicable, as well as the contractor selection methodology, shall permit the award of a contract that supports value-for-money propositions.

Staff is encouraged to familiarize themselves with environmental certification labels such as Ecologo and ENERGY STAR®. Additional information regarding purchasing environmentally preferable goods and services for the Town of Oakville can be found in the Sustainable Purchasing Handbook or at

<http://portico/DepartmentsR/Environment%20portal/SustainablePurchasing/default.aspx>

SCHEDULE “K”

DEVELOPMENT OF SPECIFICATIONS

- 1) The preparation of the specifications for Request for Quotations, Request for Tenders or Request for Proposals shall be the responsibility of the user department.
- 2) The agent shall have the authority to review and recommend improvements to the specifications when deemed necessary. The project manager shall cooperate with the purchasing division in the finalization of the specifications. The agent may reject any specification not consistent with the Procurement Policy By-law.
- 3) The agent may issue a Request for Information (RFI), to gain additional information on the supplies and/or service from the vendor community or an Expression of Interest (EOI) to determine if there is sufficient vendor interest to justify proceeding with a competitive procurement process. The RFI or EOI would request detailed information such as, but not limited to, the background of the vendor and its key personnel, relevant experience, and what the vendor can offer the town.
- 4) The following requirements shall be followed in the preparation of the specifications:
 - a. Where appropriate technical specification should be defined in terms of performance and functional requirements, rather than design or descriptive characteristics and based on international or other standards, if they exist.
 - b. Specifications should be detailed but not brand specific (unless allowing for approved equivalents) to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available to maintain a competitive procurement process.
 - c. Where the specification requirements of the user department may result in a single source purchase, it shall be at the discretion of the agent whether to authorize such specifications or to require the user department to seek approval for such specifications through the single source process addressed in Schedule “I”.
 - d. Suppliers and/or consultants who have a commercial interest in the procurement shall not be requested to provide demonstrations, expend time, money or effort on design or in developing specifications or otherwise to help define a requirement beyond the provision of general information. Where services are required for the development of specifications, design or detailed scope of work:
 - i. the agent shall be advised prior to any agreement; and
 - ii. the contracted supplier shall be considered a consultant and will not be permitted to submit a bid for the subsequent provision of the supplies and services; and
 - iii. a fee shall be paid, the amount of which shall be determined and agreed upon with the supplier before the service commences; and
 - iv. the detailed specifications shall become the property of the town, and may be used in obtaining competitive bids.

- e. Where it is not possible to prepare precise specifications to issue a Request for Quotations or Tenders, a Request for Proposals shall be issued.
- f. When purchasing goods, services and facilities it shall be required to incorporate accessibility design, criteria and features except where it is not practicable to do so. This is a requirement of the Integrated Accessibility Standard Regulation (O.Reg.191/11) under the AODA.

When preparing the specifications, the user department shall be knowledgeable of the *Accessibility for Ontarians with Disabilities Act 2005* and its regulations and the Oakville Universal Design Standards for town facilities as amended, the town's Guide to Making Purchases More Accessible and Accessibility Policy and apply those requirements with respect to procuring goods, services and/or facilities, and in the development of the specifications.

Source documents must be included with the final materials (e.g., if a PDF is created from a Microsoft Word or Adobe InDesign document, that Word or InDesign document must be included) for the purpose of creating accessible documents. If the source file has any linked images, content or unique fonts that aren't embedded or easily obtained, include as separate or packaged files. All raw data files (such as but not limited to CSV, Excel) must also be included as separate files.

- g. When preparing the specifications, the user department shall consider the amount of packaging that would be associated with the procurement of a supply. If the required level of packaging is felt to be too excessive, then the specifications for those supplies shall require the vendor to be responsible for and bear the cost for the removal and disposal of the packaging materials.
- h. Where the specifications relate to the procurement of sustainable products justified under the Green Procurement Policy they shall be approved by the director of Environmental Policy to ensure that they meet the requirements of said policy.
- i. When preparing specifications, the user department shall consider environmentally sustainable products as a first priority (see also Schedule "J"). When considering applicability of supplies or services, staff shall consider the following and determine if the supply or service will accomplish some or all of the following criteria;
 - i. make efficient use of natural resources
 - ii. minimize waste
 - iii. minimize toxicity
 - iv. give preference for high quality materials that can be repaired or upgraded
 - v. use renewable or recycled materials
 - vi. contain reusable parts or reusability
 - vii. protect indoor and outdoor air quality

SCHEDULE "L"

CONFLICT OF INTEREST

- 1) Staff involved in procurement activities with suppliers and consultants shall implement provisions that:
 - a. Adhere to the definition of Conflict of Interest included in this policy and the requirements of the town's Code of Conduct for emphasis and clarity;
 - b. Reserve the right of the agent to solely determine whether any situation or circumstance constitutes a conflict of interest;
 - c. Reserve the right of the agent to disqualify prospective suppliers or consultants from a procurement process due to a conflict of interest;
 - d. Require prospective suppliers or consultants participating in a procurement process to declare any actual, perceived or potential conflict of interest;
 - e. Require suppliers or consultants to avoid or disclose any conflict of interest during the performance of their contractual obligations for the town;
 - f. Reserve the right of the town to prescribe the manner in which a supplier or consultant should resolve a conflict of interest;
 - g. Allow the town to terminate an agreement where a supplier or consultant fails to disclose any actual or potential conflict of interest or fails to resolve a conflict of interest as directed by the town; and
 - h. Allow the town to terminate an agreement where a conflict of interest cannot be resolved.
- 2) Staff shall be aware of the conflict of interest created when a supplier or consulting organization is involved in the development of the competitive documents or is involved in a study that will lead to a requirement for development of competitive documents and also has the ability to fulfill the procurement needs that are being contemplated in those competitive documents.
- 3) Staff shall be very clear and insist on documented agreements that any supplier or consultant involved in developing the competitive documents or studies affecting competitive documents cannot be involved in the creation of the response to those competitive documents.
- 4) Directors shall also consider that there may be conflicts of interest where their own employees, advisors or members of Council may be involved. When involved in a competitive bidding process, including Requests for Proposals, employees, advisors or members of Council are expected to declare a conflict of interest and the agent shall request that a conflict-of-interest declaration be signed. The employee, advisor or member of Council is ultimately responsible and accountable to use good judgment in the exercise of the town's duties and shall:

- a. Disclose conflicts of interest to the agent or his or her department supervisor or designate in writing; and
 - b. Avoid situations that may present conflicts of interest while dealing with persons or organizations doing business or seeking to do business with the town.
- 5) Situations that might result in a conflict of interest include the following:
- a. Engaging in outside employment;
 - b. Not disclosing an existing relationship that may be perceived as being a real or apparent influence on their objectivity in carrying out an official role;
 - c. Providing assistance or advice to a particular supplier participating in a competitive process;
 - d. Having an ownership, investment interest, or compensation arrangement with any entity participating in a competitive process;
 - e. Having access to confidential information; and
 - f. Accepting favours or gratuities from those doing business with the organization.
- 6) Directors shall consider situations where there may be an employee or advisor conflict of interest and those situations shall be dealt with accordingly.
- 7) In addition to the situations that might result in a conflict of interest for all employees and advisors, the agent shall be aware of and identify any additional conflicts of interest that may arise as a result of evaluation team members participating in the selection of products or services. The evaluation team members shall sign a conflict-of-interest and non-disclosure agreement before each evaluation.

SCHEDULE "M"

DISPOSAL OF SURPLUS ASSETS

- 1) It may be determined that supplies have become surplus to the town. The agent shall be responsible for the sale or disposal of unusable, obsolete, surplus, worn-out or scrapped supplies by or on behalf of the town.
- 2) Directors shall supply an itemized inventory of all supplies, which are no longer used or which have become obsolete, or worn-out.
- 3) All assets that are being disposed because of condition, useful life cannot be made available to another department. Should another department request further use of an asset, refer to Financial Control Policies.
- 4) If such supplies cannot be used for purposes of the town, the agent shall have authority to sell, exchange, or otherwise dispose of such declared surplus by any of the following disposal methods:
 - a. as trade-in or salvage during a competitive procurement process;
 - b. by donation to a non-profit agency;
 - c. by sale through an auction site for public sector agencies;
 - d. by recycling.
- 5) In the event that all efforts to dispose of the supplies by means detailed above, surplus assets shall be scrapped or destroyed.
- 6) The agent may delegate authority for disposal of surplus supplies as and when appropriate.
- 7) The disposal of artifacts is exempt from the requirements of the procurement policy.
- 8) It is imperative that asset tracking processes and procedures are followed as outlined in the Financial Control Policies.