

# THE REGIONAL MUNICIPALITY OF HALTON

## BY-LAW NO. 74-15

A BY-LAW TO DEFINE PROCUREMENT POLICIES AND PROCEDURES FOR THE REGIONAL MUNICIPALITY OF HALTON AND TO REPEAL BY-LAW NO. 65-10.

WHEREAS The Regional Municipality of Halton, recognizing its responsibility for the effective utilization of all its resources, has the need to establish sound policies for the purpose of procuring goods and services in a manner that is congruent with and fulfils its mandate to provide effective, responsive government and efficient delivery of services to the residents of the Regional Municipality of Halton and pursuant to Section 270 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

### **1. PURPOSES, GOALS AND OBJECTIVES OF THIS BY-LAW**

1.1 THAT the purposes, goals, and objectives of this By-law and of each of the methods of procurement authorized herein are to:

- a) encourage competitive bidding;
- b) ensure fairness, objectivity, accountability and transparency in the procurement process;
- c) obtain best value in the procurement of goods and services for the Regional Corporation;
- d) encourage environmentally responsible and sustainable procurement while maintaining fiscal prudence;

promote and implement procurement practices, where possible, that support the principles of the *Ontarians with Disabilities Act, 2001* and the *Accessibility for Ontarians with Disabilities Act, 2005*.

### **2. DEFINITIONS**

2.1 THAT in this By-law:

- a) “award” means the selection by the Regional Corporation of one or more successful bids for the provision of goods or services from a chosen vendor;

- b) “bid” means a response to a bid solicitation or any other offer to sell goods or services pursuant to the By-law, which is subject to acceptance or rejection;
- c) “bid irregularity” means a deviation from the requirements of a request for quotation or request for tender, as set out in Schedule “B” - Chart of Bid Irregularities;
- d) “bid protest” means a substantive written objection provided to the Commissioner or Purchasing Services by a bidder giving specific reasons for the objection;
- e) “bid solicitation” means a formal request for competitive sealed bids or secure electronic bids that may be in the form of a request for quotation, request for tender or a request for proposal;
- f) “bidder” means one who submits a bid;
- g) “CAO” means the Chief Administrative Officer of the Regional Corporation, the Acting Chief Administrative Officer or their designate;
- h) “Commissioner” means the Commissioner of a department, the Acting Commissioner or their designate, and includes the CAO in his or her role as the head of the CAO’s Office;
- i) “competitive process” means a method of procuring goods or services, where multiple bids are solicited in the marketplace, or in the case of a pre-qualification process where multiple respondents are solicited in the marketplace;
- j) “conflict of interest” means a situation where a personal or business interest of an elected official, officer, employee or agent of the Regional Corporation who is involved in the process of procuring goods or services, is in conflict with the best interests of the Regional Corporation, and includes but is not limited to:
  - i) the giving or receiving of a direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any business that provides goods or services to the Regional Corporation or a family member of such business that provides goods or services;

- ii) a direct or indirect interest in any business that provides goods or services to the Regional Corporation;
- k) “contract” means a binding agreement between two or more parties that creates an obligation to do or provide a particular good or service, or a combination thereof;
- l) “contract extension” means the extension of the term of an existing contract originally awarded through a competitive or non-competitive process, for the purchase of goods or services;
- m) “Council” means the Council of the Regional Corporation;
- n) “cumulative cost” means the sum of all costs of any additional purchases of goods or services made pursuant to an existing contract by extension or unforeseen circumstance purchase, exclusive of all taxes, but inclusive of all fees, charges and disbursements;
- o) “department” means any department of the Regional Corporation;
- p) “Department Representative” means an employee designated by the CAO or Commissioner to act on behalf of the Regional Corporation to purchase goods and services;
- q) “Director” means the Director of a division, the Acting Director or their designate;
- r) “Director of Financial Reporting, Purchasing & Payroll Services” means the Director of the Financial Reporting, Purchasing & Payroll Services Division, the Acting Director of Financial Reporting, Purchasing & Payroll Services or their designate, or any other person appointed by the Treasurer from time to time to assume the role and responsibilities of the Director of Financial Reporting, Purchasing & Payroll Services under this By-law;
- s) “division” means any division of a department;
- t) “evaluation committee” means the Department Representatives selected to evaluate proposals;
- u) “expression of interest” means a response from a potential vendor to a request for expression of interest issued to the market to determine the availability of potential vendors of

goods or services in the market that does not create any contractual obligation with a potential vendor;

- v) “fair market value” means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length;
- w) “goods and services” includes supplies, equipment, materials, construction work, consulting services and any other goods and services, or a combination thereof;
- x) “highest ranking proposal” means a bid received in response to a request for proposal that provides the optimal balance of performance and cost having regard to the Regional Corporation’s objectives in respect of the purchase of the goods or services as determined by the application of the evaluation criteria contained in the request for proposal document;
- y) “in-house bid” means a bid made by a department and authorized by the Commissioner of that department, submitted in response to a bid solicitation, where the goods or services will be provided entirely by the employees of the Regional Corporation;
- z) “lowest compliant bid” means a bid that provides the Regional Corporation with the desired goods or services at the lowest cost and contains no bid irregularities resulting in rejection;
- aa) “Manager of Purchasing Services” means the Manager of Purchasing Services, the Acting Manager of Purchasing Services or their designate, or any other person appointed by the Treasurer from time to time to assume the role and responsibilities of the Manager of Purchasing Services under this By-law;
- bb) “pre-qualification process” means the process of screening potential bidders in which such factors as experience, financial capability, reputation and management are considered in order to develop a list of qualified bidders who may submit a bid in a subsequent competitive process;
- cc) “proposal” means a bid in response to a request for proposal, acceptance of which may be subject to further negotiation;

- dd) “purchase order” means a written offer to purchase goods or services, or a written acceptance of a bid received in accordance with this By-law;
- ee) “Purchasing Services” means the organizational unit within the Regional Corporation responsible for managing this By-law and the Regional Corporation’s procurement policies and procedures;
- ff) “quotation” means a statement of price, terms of sale, and description of goods or services;
- gg) “Regional Corporation” means The Regional Municipality of Halton;
- hh) “request for proposal” means a competitive process that seeks proposals from potential vendors where the solutions to a problem are expected to be complex and/or the goods or services required may vary and/or where cost is not the primary evaluation criteria considered when making an award;
- ii) “signing authority” means the authority delegated to an employee to purchase goods or services, in accordance with the requirements of this By-law up to the prescribed dollar thresholds as determined by the Treasurer;
- jj) “single source” means a source of goods or services recommended under the single source provisions of this By-law, the procurement of which is not subject to a competitive process, and where there is or may be more than one source of supply that meets the requirements of the Regional Corporation;
- kk) “sole source” means a source of goods or services recommended under the single source provisions of this By-law, the procurement of which is not subject to a competitive process, and where there is only one known source of supply that meets the requirements of the Regional Corporation;
- ll) “tender” means a bid in response to a request for tender;
- mm) “total cost” means the sum of all costs of goods or services, exclusive of all taxes, but inclusive of all fees, charges and disbursements;
- nn) “Treasurer” means the Treasurer of the Regional Corporation, the Deputy Treasurer or their designate;

- oo) “two envelope method” means a component of a procurement process in which bids are received in two separate envelopes and where the first envelope consists of technical and qualitative information and is opened and evaluated first, and the second envelope consists of price information and may be opened and evaluated only after the information in the first envelope has been evaluated in accordance with the requirements of the request for proposal document;
- pp) “unforeseen circumstance purchase” means the purchase of goods or services, that are an addition to an existing contract and are required as a result of circumstances that were unforeseen prior to the award of the existing contract, but are essential to the completion of the original contract within its intended scope;
- qq) “vendor” means any individual or organization providing goods or services to the Regional Corporation including but not limited to suppliers, contractors, consultants, service providers, etc.

### **3. INTERPRETATION**

- 3.1 a) THAT 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.
- b) THAT a word interpreted in the singular number has corresponding meaning when used in the plural.
- c) THAT where an individual is authorized to do any act pursuant to this By-law, such act may be done by such individual’s authorized designate.
- d) THAT the headings contained in this By-law are for reference only.
- e) THAT Schedule "A" - Purchase Exemptions attached hereto is hereby incorporated into this By-law.
- f) THAT Schedule "B" - Chart of Bid Irregularities attached hereto is hereby incorporated into this By-law.

#### **4. GENERAL PROCUREMENT POLICIES AND PROCEDURES**

- 4.1 THAT the policies and procedures prescribed in this By-law and that are developed by Purchasing Services pursuant to this By-law, including all of the purposes, goals and objectives, shall be followed for the procurement of all goods and services, and for the awarding of any contract by the Regional Corporation, as applicable and subject to the exclusions set out herein.

#### **5. RESPONSIBILITIES**

- 5.1 a) THAT the Financial Reporting, Purchasing & Payroll Services Division shall be responsible for operating Purchasing Services on behalf of the Regional Corporation in accordance with the requirements of this By-law. Purchasing Services will therefore have the following specific responsibilities:
- i) ensuring there is an open, fair and impartial procurement process for goods and services;
  - ii) ensuring compliance with this By-law and advising Council through the appropriate Commissioner, or the CAO, when there is non-compliance;
  - iii) notifying bidders, receiving, opening and reviewing of all responses to bid solicitations;
  - iv) developing co-operative purchasing plans with other governments or their agencies or public authorities, where deemed beneficial to the Regional Corporation;
  - v) promoting the standardization of goods and services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law;
  - vi) managing the disposal of goods that have been declared surplus in accordance with this By-law;
  - vii) developing and maintaining relevant purchasing policies and procedures that are consistent with this By-law;
  - viii) evaluating the effectiveness of this By-law with the intent that it be reviewed five years after coming into force, or earlier; and
  - ix) maintaining a record of all Department Representatives who have been appointed under this By-law to procure

goods and services on behalf of the Regional Corporation.

- b) THAT the Department Representatives shall be responsible for the procurement of goods and services up to the value of their prescribed signing authority and the CAO and Commissioner may request the Manager of Purchasing Services to initiate a procurement process where necessary. The Department Representatives will therefore have the following specific responsibilities:
- i) adhering to this By-law, and the policies and procedures created thereunder, when procuring goods or services;
  - ii) identifying and confirming the availability of sufficient funds in appropriate accounts within the Council approved budget to procure goods and services or award a contract;
  - iii) preparing and approving all specifications and/or terms of reference, in consultation with Purchasing Services;
  - iv) managing contracts to ensure expected results, products and/or services are received by the Regional Corporation, in accordance with contract terms and conditions;
  - v) monitoring all contract expenditures and ensuring that all financial limitations have been complied with and that all accounts are paid within the times set out in the contract;
  - vi) monitoring the performance of vendors;
  - vii) recommending standardization of goods and services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law; and
  - viii) ensuring that all goods and services procured have in fact been received, and recording such receipts in the form prescribed by Purchasing Services.

## **6. REQUIREMENT FOR APPROVED FUNDS**

- 6.1 a) THAT the authority to procure goods and services, or award a contract is subject to the identification and availability of sufficient

funds in appropriate accounts within the Council approved budget.

- b) THAT the Director of Financial Reporting, Purchasing & Payroll Services shall reject all purchase requests for purchases or contracts for which sufficient funds are not available and identified unless, in the opinion of the Treasurer, the deficiency is minimal and alternative funding has been identified.
- c) THAT the Treasurer may approve up to a 10% contingency to be included in the cost of a contract that is awarded for construction projects, if there are sufficient funds within the Council approved budget.

## **7. PURCHASE EXEMPTIONS**

- 7.1 THAT the procurement and reporting methods described in Sections 8 to 23 of this By-law do not apply to the items listed in Schedule "A" - Purchase Exemptions.

## **8. BID PROCESSING**

- 8.1 THAT the process of notifying the market of procurement opportunities, and the issuing, receiving, opening and evaluating of competitive sealed bids or secure electronic bids shall comply with purchasing policies and procedures.

## **9. REQUEST FOR EXPRESSIONS OF INTEREST**

- 9.1 THAT the Manager of Purchasing Services may issue a request for expression of interest to determine the availability of vendors of any goods or services, and to keep a list of available vendors. The response to a request for expression of interest does not create any contractual obligation.

## **10. METHODS OF PROCUREMENT**

- 10.1 THAT the methods of procurement in Sections 11 to 22 of this By-law are hereby authorized as the acceptable methods for all procurement activities undertaken by or on behalf of the Regional Corporation. These methods may be utilized individually or in combination with one another, as may be appropriate in the circumstances.

## **11. PRE-QUALIFICATION OF ACCEPTABLE BIDDERS**

- 11.1 a) THAT the Manager of Purchasing Services may conduct a pre-qualification process for any goods or services, in order to

establish a list of pre-qualified bidders who are eligible to participate in bid solicitations for goods or services over a pre-determined period of time or for a specific project(s), when he or she determines that it is beneficial to do so.

- b) THAT potential bidders shall be pre-qualified by way of a competitive process.

## **12. PURCHASES UP TO \$10,000**

- 12.1 a) THAT the Department Representative may procure goods or services with a total cost of up to \$10,000 by obtaining quotes from one or more vendors where he or she can demonstrate that the purchase was made at fair market value.
- b) THAT in making a purchase under Section 12.1 a) the Department Representative must be able to demonstrate that he or she has considered whether the total needs and the annual needs for the goods or services do not exceed a cost of \$10,000.
- c) THAT unless Section 23 applies, a Department Representative has the authority to make an award for a purchase in accordance with Section 12.1 where:
  - i) the total cost of the goods or services, including any increase(s) to an existing purchase, does not exceed \$10,000; andthe total cost does not exceed the value of the Department Representative's prescribed signing authority.

## **13. PURCHASES GREATER THAN \$10,000 AND NOT EXCEEDING \$35,000**

### **13.1 Competitive Process - Request for Quotations**

- a) THAT for the procurement of goods or services with a total cost greater than \$10,000 and not exceeding \$35,000, written quotations shall be solicited by the Department Representative provided that all of the following conditions apply:
  - i) there are sources in the market that are considered capable of supplying the goods or services;
  - ii) a clear specific solution to a problem exists and/or the goods or services are adequately defined.

- b) THAT a minimum of three written quotations shall be solicited by the Department Representative from any vendors. The written quotations shall be analyzed and the Department Representative shall be able to demonstrate that the quotation selected represents fair market value for the purchase.
- c) THAT in making a purchase in accordance with Section 13.1 a), the Department Representative must be able to demonstrate that he or she has considered whether the total needs and the annual needs for the goods or services do not exceed a cost of \$35,000.
- d) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 13.1 where the Manager of Purchasing Services has confirmed that the award is in accordance with the Purchasing By-law.

### 13.2 Competitive Process - Request for Proposals

- a) THAT for the procurement of goods or services with a total cost greater than \$10,000 and not exceeding \$35,000, a request for proposal shall be applied by the Department Representative where it is determined by the Department Representative, who may consult with Purchasing Services, that:
  - i) solutions to a problem are expected to be complex; and/or
  - ii) the goods or services required may vary; and/or
  - iii) cost is not the primary evaluation criteria.
- b) THAT the Department Representative shall solicit written proposals from a minimum of three vendors.
- c) THAT proposals received shall be analysed and evaluated by the Department Representative using pre-determined criteria which shall include a minimum weighting of 30% for cost unless the Treasurer approves a lesser weighting.
- d) THAT it is intended that the highest ranking proposal shall be accepted for award.
- e) THAT in making a purchase in accordance with Section 13.2 a) the Department Representative must be able to demonstrate that he or she has considered whether the total needs and the annual needs for the goods or services do not exceed a cost of \$35,000.

- f) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 13.2 where the Manager of Purchasing Services has confirmed that the award is in accordance with the Purchasing By-law.

### 13.3 Emergency Purchases

- a) THAT where a Department Representative determines that an emergency purchase is required as a result of an event described in Section 16.1, and:
  - i) there is insufficient time to make the purchase using a competitive process; and
  - ii) the total cost of the goods or services considered necessary to remedy the situation does not exceed \$35,000,the CAO may authorize the purchase, including through negotiations, without requiring a competitive process, and the Department Representative may award the necessary contract.
- b) THAT the relevant details surrounding all emergency purchases shall be reported to the Manager of Purchasing Services immediately in writing, or as soon as it is practical to do so.

### 13.4 Single Source Purchases

- a) THAT for the procurement of goods or services where the total cost is greater than \$10,000 and does not exceed \$35,000, a single source purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that one or more of the conditions in Section 17 apply.
- b) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 13.4 where the Manager of Purchasing Services has confirmed that the award is in accordance with the Purchasing By-law.

### 13.5 Contract Extension and Unforeseen Circumstance Purchases

- a) THAT for a procurement of goods or services where there is an existing contract greater than \$10,000, the contract may be extended without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that:
  - i) the condition in Section 18.1 a) i) applies; and

- ii) the cost of the increase to the existing contract does not exceed \$35,000.
- b) THAT for a procurement of goods or services where there is an existing contract greater than \$10,000, a contract extension or unforeseen circumstance purchase may be made, without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that:
  - i) any of the conditions in Section 18.1 a) ii) or iii) apply; and
  - ii) the cumulative cost of the increase to the existing contract and of any previous contract extensions and/or unforeseen circumstance purchases does not exceed \$35,000.

THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 13.5 where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.

#### **14. PURCHASES GREATER THAN \$35,000 AND NOT EXCEEDING \$100,000**

##### **14.1 Competitive Process - Request for Quotations**

- 14.1 a) THAT for the procurement of goods or services with a total cost greater than \$35,000 and not exceeding \$100,000, a request for quotation shall be applied through Purchasing Services provided that all of the following conditions apply:
  - i) there are sources in the market that are considered capable of supplying the goods or services;
  - ii) a clear specific solution to a problem exists and/or the goods or services are adequately defined;
  - iii) the market conditions are such that the quotations can be submitted on a competitive pricing basis; and
  - iv) it is intended that the lowest compliant bid shall be accepted without negotiations.
- b) THAT the Department Representative shall provide to Purchasing Services the relevant information such as specifications, provisions, plans, special provisions and any other information as deemed necessary by the Manager of Purchasing.

- c) THAT Purchasing Services shall conduct the bid solicitation by using electronic advertising.
- d) THAT notwithstanding Section 14.1 c), Purchasing Services may conduct the bid solicitation from a list of a minimum of three invited vendors provided by the Department Representative where it is first demonstrated to the Manager of Purchasing Services that time is of the essence or the goods or services were previously supplied satisfactorily.
- e) THAT all bids shall be in the form of a competitive sealed bid or a competitive secure electronic bid.
- f) THAT any bid irregularities shall be dealt with in accordance with Schedule "B", Chart of Bid Irregularities.
- g) THAT when issuing a request for quotation the Department Representative must be able to demonstrate that he or she has considered whether the total projected needs for the goods or services does not exceed a cost of \$100,000.
- h) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 14.1 where the award is made to the lowest compliant bid and where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.
- i) THAT the Commissioner shall submit a report to Committee and Council in accordance with Section 23 where the lowest compliant bid for a good or service received in response to a request for quotation is not being recommended for award.

#### 14.2 Competitive Process - Request for Proposals

- a) THAT for the procurement of goods or services with a total cost greater than \$35,000 and not exceeding \$100,000, a request for proposal shall be applied through Purchasing Services where it is determined by the Department Representative in consultation with Purchasing Services that:
  - i) solutions to a problem are expected to be complex; and/or
  - ii) the goods or services required may vary; and/or
  - iii) cost is not the primary evaluation criteria.

- b) THAT the Department Representative shall provide to Purchasing Services the relevant information such as statement of work, provisions, plans, special provisions, evaluation criteria and any other information as deemed necessary by the Manager of Purchasing.
- c) THAT Purchasing Services shall conduct the bid solicitation by using electronic advertising.
- d) THAT notwithstanding Section 14.2 c), Purchasing Services may conduct the bid solicitation from a list of a minimum of three invited vendors provided by the Department Representative where it is first demonstrated to the Manager of Purchasing Services that time is of the essence or the goods or services were previously supplied satisfactorily.
- e) THAT all bids shall be in the form of a competitive sealed bid or a competitive secure electronic bid.
- f) THAT the two envelope method shall be used for the submission and evaluation of proposals, unless the Manager of Purchasing Services approves an alternate method.
- g) THAT proposals received shall be analysed and evaluated by an evaluation committee using pre-determined criteria which shall include a minimum weighting of 30% for cost, unless the Treasurer approves a lesser weighting.
- h) THAT the Director of Financial Reporting, Purchasing & Payroll Services may authorize, in advance, a negotiated request for proposal , which would include negotiations with one or more bidders as a component of the procurement process, with the terms of negotiation established in the bid document.
- i) THAT it is intended that the highest ranking proposal shall be accepted for award, or where applicable, selected for negotiation in anticipation of award.
- j) THAT when issuing a request for proposal the Department Representative must be able to demonstrate that he or she has considered whether the total projected needs for the goods or services does not exceed a cost of \$100,000.
- k) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 14.2 where the award is made to the highest ranking proposal and

where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.

#### 14.3 Emergency Purchases

- a) THAT where a Department Representative determines that an emergency purchase is required as a result of an event described in Section 16.1, and:
  - i) there is insufficient time to make the purchase using a competitive process; and
  - ii) the total cost of the goods or services considered necessary to remedy the situation is greater than \$35,000 and not exceeding \$100,000,

the CAO may authorize the purchase without the requirement for a bid solicitation, including through negotiations, and the Department Representative may award the necessary contract.

- b) THAT the relevant details surrounding all emergency purchases shall be reported to the Manager of Purchasing Services immediately in writing, or as soon as it is practical to do so.
- c) THAT a report shall be submitted by the Department Representative to the CAO to explain the actions taken and the reasons therefor.

#### 14.4 Single Source Purchases

- a) THAT for the procurement of goods or services where the total cost is greater than \$35,000 and does not exceed \$100,000, a single source purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that one or more of the conditions in Section 17 apply.
- b) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 14.4 where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.

#### 14.5 Contract Extension and Unforeseen Circumstance Purchases

- a) THAT for a procurement of goods or services where there is an existing contract greater than \$10,000, the contract may be

extended without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that:

- i) the condition in Section 18.1 a) i) applies; and
  - ii) the cost of the increase to the existing contract is greater than \$35,000 but does not exceed \$100,000.
- b) THAT for a procurement of goods or services where there is an existing contract greater than \$10,000, a contract extension or unforeseen circumstance purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that:
- i) any of the conditions in Section 18.1 a) ii) or iii) apply; and
  - ii) the cumulative cost of the increase to the existing contract and any previous contract extensions and/or unforeseen circumstance purchases is greater than \$35,000 but does not exceed \$100,000.
- c) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 14.5 where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.

## **15. PURCHASES EXCEEDING \$100,000**

### **15.1 Competitive Process - Request for Tenders**

- a) THAT for the procurement of goods or services with a total cost greater than \$100,000, a request for tender shall be applied through Purchasing Services provided that all of the following conditions apply:
  - i) there are sources in the market that are considered capable of supplying the goods or services;
  - ii) a clear specific solution to a problem exists and/or the goods or services are adequately defined;
  - iii) the market conditions are such that the tenders can be submitted on a competitive pricing basis; and
  - iv) it is intended that the lowest compliant bid shall be accepted without negotiations.
  
- b) THAT the Department Representative shall provide to Purchasing Services the relevant information such as specifications, provisions, plans, special provisions and any

other information as deemed necessary by the Manager of Purchasing.

- c) THAT Purchasing Services shall conduct the bid solicitation by using electronic advertising and, if appropriate, advertising in a publication of general circulation where there are many sources of supply in the market or in such other circumstances where it is determined appropriate by the Manager of Purchasing Services in consultation with the Department Representative.
- d) THAT all bids shall be in the form of a competitive sealed bid or a competitive secure electronic bid.
- e) THAT any bid irregularities shall be dealt with in accordance with Schedule "B" - Chart of Bid Irregularities.
- f) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 15.1 where the award is made to the lowest compliant bid and where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.
- g) THAT the Commissioner shall submit a report to Committee and Council, in accordance with Section 23 where the lowest compliant bid for a good or service received in response to a request for tender is not being recommended for award.

## 15.2 Competitive Process - Request for Proposals

- a) THAT for the procurement of goods or services with a total cost greater than \$100,000, a request for proposal shall be applied through Purchasing Services where it is determined by the Department Representative in consultation with Purchasing Services that:
  - i) solutions to a problem are expected to be complex; and/or
  - ii) the goods or services required may vary; and/or
  - iii) cost is not the primary evaluation criteria.
- b) THAT the Department Representative shall provide to Purchasing Services the relevant information such as statement of work, provisions, plans, special provisions, evaluation criteria and any other information as deemed necessary by the Manager of Purchasing.

- c) THAT Purchasing Services shall conduct the bid solicitation by using electronic advertising and, if appropriate, advertising in a publication of general circulation where there are many sources of supply in the market or in such other circumstances where it is determined appropriate by the Manager of Purchasing Services in consultation with the Department Representative.
- d) THAT all bids shall be in the form of a competitive sealed bid or a competitive secure electronic bid.
- e) THAT the two envelope method shall be used for the submission and evaluation of proposals, unless the Treasurer approves an alternate method.
- f) THAT proposals received shall be analysed and evaluated by an evaluation committee using pre-determined criteria which shall include a minimum weighting of 30% for cost, unless the Treasurer approves a lesser weighting.
- g) THAT the Treasurer may authorize, in advance, a negotiated request for proposal, which would include negotiations with one or more bidders as a component of the procurement process, with the terms of negotiation established in the bid document.
- h) THAT it is intended that the highest ranking proposal shall be accepted for award, or where applicable, selected for negotiation in anticipation of award.
- i) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 15.2 where the award is made to the highest ranking proposal and where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law.

### 15.3 Emergency Purchases

- a) THAT where a Department Representative determines that an emergency purchase is required as a result of an event described in Section 16.1, and:
  - i) there is insufficient time to make the purchase using a competitive process; and
  - ii) the total cost of the goods or services considered necessary to remedy the situation exceeds \$100,000,

the CAO may authorize the purchase without the requirement for a bid solicitation, including through negotiations, and the Department Representative may award the necessary contract.

- b) THAT the relevant details surrounding all emergency purchases shall be reported to the Manager of Purchasing Services immediately in writing, or as soon as it is practical to do so.
- c) THAT the Commissioner shall submit a report to Committee and Council for an emergency purchase for information purposes explaining the actions taken and the reasons therefor.

#### 15.4 Single Source Purchases

- a) THAT for the procurement of goods or services where the total cost is greater than \$100,000, a single source purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that one or more of the conditions in Section 17 apply.
- b) THAT the Commissioner shall submit a report to Committee and Council in accordance with Section 23, for approval of an award where the total cost of the goods or services exceeds \$100,000.

#### 15.5 Contract Extension and Unforeseen Circumstance Purchases

- a) THAT for a procurement of goods or services where there is an existing contract greater than \$10,000, the contract may be extended without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that:
  - i) the condition in Section 18.1 a) i) applies; and
  - ii) the cost of the increase to the existing contract is greater than \$100,000.
- b) THAT for a procurement of goods or services where there is an existing contract greater than \$10,000, a contract extension or unforeseen circumstance purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that:
  - i) any of the conditions in Section 18.1 a) ii) or iii) apply; and
  - ii) the cumulative cost of the increase to the existing contract and any previous contract extensions and/or

unforeseen circumstance purchases is greater than \$100,000.

- c) THAT unless Section 23 applies, the CAO has the authority to make an award for a purchase in accordance with Section 15.5 where the Manager of Purchasing Services has confirmed that the award complies with the Purchasing By-law, and where the cumulative cost of the contract extension or unforeseen circumstance purchase and the total cost of the existing contract and any previous amendments is within the Council approved budget.

## **16. EMERGENCY PURCHASES**

- 16.1 a) THAT an emergency purchase results from an event that:
  - i) is a threat to public health;
  - ii) disrupts the provision of essential services of the Regional Corporation;
  - iii) presents immediate risk to the welfare of persons, public property or the environment; and/or
  - iv) is an emergency declared under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, or successor legislation.
- b) THAT any award of an emergency purchase shall be made in accordance with the authority and reporting requirements in Sections 12 to 15 that apply to the dollar value of the emergency purchase.

## **17. SINGLE SOURCE PURCHASES**

- 17.1 THAT for the procurement of goods or services with a total cost greater than \$10,000, a single source purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that one or more of the following conditions apply:
  - a) there is only one known source of supply and only this source can meet the needs of the Regional Corporation;
  - b) the compatibility of the purchase with existing equipment, facilities or services is a paramount consideration;
  - c) the good is purchased for testing or trial use;

- d) timing constraints for the receipt of third party funding for the purchase of goods or services do not permit issuing a bid solicitation;
- e) the goods or services are in short supply due to market conditions;
- f) competition is precluded due to the existence of any patent right, copyright, technical secret or control of raw material;
- g) the purchase relates to matters involving security, police matters, or confidential issues, in which case the purchase may be made in a manner that protects the confidentiality of the vendor or the Regional Corporation; or
- h) where it is most cost effective or beneficial to the Regional Corporation.

17.2 THAT any award of a single source purchase described in Section 17.1 shall be made in accordance with the authority and reporting requirements in Sections 13 to 15 that apply to the dollar value of the single source purchase.

**18. CONTRACT EXTENSION AND UNFORESEEN CIRCUMSTANCE PURCHASES**

- 18.1 a) THAT for an additional purchase under an existing contract greater than \$10,000, a contract extension or unforeseen circumstance purchase may be made without a competitive process, and may include negotiations, where it is first demonstrated to the CAO that any of the following conditions apply:
- i) a contract extension is being recommended where the negotiation of an optional contract extension formed part of the terms of the original contract;
  - ii) a contract extension is required because the term of the contract will expire or has expired, but circumstances have caused a delay in its issue, and the terms of the original contract did not allow for contract extensions to be negotiated; or
  - iii) an unforeseen circumstance purchase is required as a result of circumstances that were unforeseen prior to the award of the existing contract, but are essential to the completion of the original contract within its intended scope.

- b) THAT any award of a contract extension or unforeseen circumstance purchase described in Section 18 shall be made in accordance with the authority and reporting requirements in Sections 13 to 15 applicable to the dollar value of the contract extension or unforeseen circumstance purchase.

## **19. NEGOTIATION**

- 19.1 THAT the CAO may authorize negotiations for the purchase of goods or services in instances not addressed by this By-law.

## **20. CO-OPERATIVE PURCHASING**

- 20.1 THAT the Regional Corporation shall encourage and participate in co-operative purchasing with other governments or their agencies or public authorities when the best interests of all participants would be served.

## **21. IN-HOUSE BIDS**

- 21.1 THAT in-house bids may be used for the procurement of goods or services where approved by Council. In-house bids shall only be utilized where external vendors have also been requested to submit bids.

## **22. UNSOLICITED PROPOSALS**

- 22.1 THAT unsolicited proposals received by the Regional Corporation shall be reviewed by the Commissioner in consultation with the Treasurer. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with Section 17, Single Source Purchases.

## **23. AWARDS SUBJECT TO COUNCIL APPROVAL**

- 23.1 THAT despite any other provision of this By-law, the Commissioner shall submit a report to Committee and Council for Council approval of the following awards:
  - a) where the provisions of this By-law are being waived;
  - b) where the lowest compliant bid for a good or service received in response to a request for quotation issued in accordance with Section 14.1, Competitive Process – Requests for Quotations, or a request for tender issued in accordance with Section 15.1, Competitive Process – Requests for Tenders, is not being recommended;

- c) with the exception of capital projects, where the total cost of the goods or services exceeds the amount provided in the budget for that acquisition;
- d) for capital projects, where the total cost of the proposed contract exceeds the amount provided in the capital budget for that project by the lesser of 10% of the project budget or \$100,000, or when additional debenture financing is required;
- e) where the total cost of the goods or services exceeds \$100,000 and the award is made in accordance with Section 15.4, Single Source Purchases;
- f) where a bid protest emanating from a bid solicitation has been filed with the Commissioner or with Purchasing Services and has not been resolved by staff; and/or
- g) where authority to award has not been expressly delegated.

### 23.2 Annual Information Report to Council

THAT at least annually, the Treasurer shall submit reports listing all purchases of goods and services in excess of \$100,000 for the information of Committee and Council.

## **24. FORMS OF COMMITMENT**

- 24.1 a) THAT for expenditures of \$10,000 or less a commitment may be made by the Department Representative by purchasing card, telephone, letter, facsimile, email or purchase order in accordance with this By-law.
- b) THAT for expenditures in excess of \$10,000 a commitment may be made by purchase order in accordance with this By-law. The Director of Financial Reporting, Purchasing & Payroll Services may authorize a commitment by purchasing card for specific transactions in excess of \$10,000.
- c) THAT when the nature of the goods or services warrants, in the opinion of the Director of Legal Services, or where the vendor requires a different form of commitment other than a purchase order, a contract in a form satisfactory to the Director of Legal Services shall be the form of commitment.
- d) THAT except as otherwise directed by Council, for all expenditures exceeding \$100,000 the commitment shall be in a form approved by the Director of Legal Services.

## **25. AUTHORITY TO EXECUTE CONTRACTS**

- 25.1 a) THAT where all the requirements of this By-law have been met, the Commissioner is authorized to execute contracts and any ancillary documents, with the exception of those contracts to which section 25.1 b) applies, that have been prepared in a form satisfactory to the Director of Legal Services, when all of the following conditions have been met:
- i) sufficient funds are available within the department budget and have been approved by Council;
  - ii) the procurement process and reporting procedures were carried out in accordance with this By-law;
  - iii) the contract is specific to one department;
  - iv) there is no future financial or performance obligation at the termination of the contract; and
  - v) the term is for a specific period or until completion of a defined project.
- 25.1 b) THAT where all the requirements of this By-law have been met, the Commissioner of Finance and Regional Treasurer or his or her designate is authorized to execute contracts and any ancillary documents for the acquisition or license of software, software maintenance, application services, digital data and equipment maintenance that have been prepared in a form satisfactory to the Director of Legal Services, when all of the following conditions have been met:
- i) sufficient funds are available within the department budget and have been approved by Council;
  - ii) the procurement process and reporting procedures were carried out in accordance with this By-law;
  - iii) there is no future financial or performance obligation at the termination of the contract; and
  - iv) the term is for a specific period or until completion of a defined project.
- c) THAT when the circumstances in Subsection 25.1 a) or b) are not met but where all the requirements of this By-law have been met, the Regional Chair and Regional Clerk are authorized to execute contracts and any ancillary documents that have been prepared in a form satisfactory to the Director of Legal Services.

## **26. GREEN PROCUREMENT POLICY**

26.1 THAT Department Representatives shall consider the objectives of the Green Procurement Policy when preparing and approving all specifications and/or terms of reference that will be used to purchase goods and services, and shall be able to demonstrate having made such considerations.

## **27. VENDOR PERFORMANCE**

- 27.1 a) THAT the Department Representative shall be responsible for monitoring vendor performance and ensuring proper documentation exists to support an objective assessment of performance. Purchasing Services shall receive copies of documentation related to a vendor that has performed unsatisfactorily with respect to contract specifications, terms and conditions, health and safety, environmental or other requirements.
- b) THAT the Treasurer may, in consultation with the Commissioner of Legislative & Planning Services and Corporate Counsel and the Departmental Commissioner, prohibit an unsatisfactory vendor from being awarded a contract or submitting bids in response to subsequent bid solicitations for a specified period of time.

## **28. SURPLUS AND DISPOSAL**

28.1 THAT a Director has the authority to declare goods as surplus to the needs of the Regional Corporation where the estimated value of such goods does not exceed \$35,000, and the Director of Financial Reporting, Purchasing & Payroll Services shall have the authority to sell, exchange, donate or otherwise dispose of such surplus goods in accordance with Subsections 28.3 and 28.4.

28.2 THAT a Commissioner has the authority to declare goods as surplus to the needs of the Regional Corporation where the estimated value of such goods exceeds \$35,000, and the Director of Financial Reporting, Purchasing & Payroll Services shall have the authority to sell, exchange, donate or otherwise dispose of such surplus goods in accordance with Subsections 28.3 and 28.4.

- 28.3 a) THAT items or groups of items declared surplus to the needs of the Regional Corporation may:
- i) be offered or donated to other public or non-profit agencies;

- ii) be sold by external advertisement, formal request, auction or public sale; or
  - iii) be advertised internally to employees for sale and sealed bids will be received with award to the highest bidder.
- b) THAT surplus goods may be sold or traded to the original vendor or others in the same line of business where it is determined that a higher net return will be obtained than following the procedures set out in Subsection 28.3 a).
- 28.4 THAT in the event that all efforts to dispose of goods as set out above in Subsections 28.3 a) and b) are unsuccessful or the methods are deemed not to be cost effective or in the best interest of the Regional Corporation, these items may be scrapped.
- 28.5 THAT Section 28 does not apply to artifacts in the collection of the Halton Region Museum.

## **29. PROHIBITIONS**

### **29.1 Splitting**

THAT no purchase or contract for goods or services shall be divided to avoid the requirements of this By-law.

### **29.2 Personal Purposes**

THAT no purchase shall be made by the Regional Corporation which is personal to the person requesting the purchase or his or her family member(s) and is not for the Regional Corporation or any of its purposes.

### **29.3 Surplus Goods**

THAT a Director or Commissioner, as the case may be, who declares goods surplus in accordance with Section 28 shall not bid on or personally obtain any goods he or she has declared as surplus.

### **29.4 Rewards**

THAT every elected official, officer, employee or agent of the Regional Corporation or a member of their family is expressly prohibited from accepting, directly or indirectly from any vendor or potential vendor any rebate, gift or money, except:

- a) gifts of a very small intrinsic value;

- b) gifts given for the use and benefit of the Regional Corporation;
- c) moderate hospitality during the normal course of business that would not significantly exceed what the Regional Corporation, through an employee expense account, would likely provide in return and would not be perceived by others as influencing the making of a business decision.

29.5 Conflict of Interest

THAT any elected official, officer, employee or agent of the Regional Corporation shall declare to the Treasurer a potential conflict of interest and refrain from participating in a procurement process where a conflict would be found or deemed to exist.

29.6 Employee Code of Conduct

THAT employees abide by the Employee Code of Conduct when performing any responsibilities or discharging any obligations under this By-Law.

**30. REPEAL OF BY-LAW NO. 65-10**

30.1 THAT By-law No. 65-10 is hereby repealed and replaced by this By-law effective on the date this By-law comes into force.

**31. DATE BY-LAW EFFECTIVE**

31.1 THAT this By-law comes into force on 1<sup>st</sup> day of December, 2015.

READ and PASSED this 17th day of June, 2015.

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REGIONAL CHAIR

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REGIONAL CLERK

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 74-15 - SCHEDULE "A"

**PURCHASE EXEMPTIONS**

The procurement and reporting methods described in Sections 8 to 23 of this By-law do not apply to the following goods or services:

1. Petty Cash items
2. Training and Education
  - (a) Conferences, conventions, courses and seminars
  - (b) Magazines, books, periodicals
  - (c) Memberships
3. Refundable Employees Expenses
  - (a) Advances
  - (b) Meal allowances
  - (c) Travel and entertainment
  - (d) Miscellaneous - Non-Travel
4. General Expenses of the Corporation
  - (a) Payroll deductions remittances
  - (b) Medical
  - (c) Licenses (Vehicle, Firearms, etc.)
  - (d) Debenture payments
  - (e) Insurance premiums
  - (f) Grants to Agencies
  - (g) Damage claims
  - (h) Petty cash replenishment
  - (i) Tax remittances
  - (j) Charges to and from other Government bodies for services provided in the normal course of business
  - (k) Sinking fund payments
  - (l) Payments for employment
  - (m) Postage
5. Professional and Special Services
  - (a) Committee fees
  - (b) Medical and laboratory services
  - (c) Legal fees for expert or professional legal services for all Regional and Insurance Matters
  - (d) Payments to Social Service and Health Agencies that are subject to Purchase of Service Agreements

- (e) Medical and dental fees
  - (f) Funeral and burial expenses
  - (g) Appraiser fees
  - (h) Witness fees
  - (i) Honorariums
  - (j) Advertising
  - (k) Vouchers for social service recipients
  - (l) Hairdressing and aesthetic services for the Long Term Care Homes
  - (m) Hotels or other facility rentals for emergency shelter purposes
  - (n) Debenture fiscal agents
  - (o) Fees for expert, specialized, professional services where the subject matter is deemed to be either time sensitive and/or confidential by the CAO
6. Utilities
- (a) Water and Sewer
  - (b) Hydro
  - (c) Gas
  - (d) Utility relocations
7. Real Property
- (a) Lease, Purchase, or Sale of Real Property

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 74-15 - SCHEDULE "B"

**CHART OF BID IRREGULARITIES**

<b><u>IRREGULARITY</u></b>	<b><u>RESPONSE</u></b>
Late bids	Automatic rejection
Signature missing from signature page	Automatic rejection
Failure to return the documents as specified in the bid solicitation	Automatic rejection
Bids containing major errors or omissions	Automatic rejection, where the Region determines that such errors or omissions affect price or have a material impact on the bid
Bids received on forms other than those specified in the bid solicitation	Automatic rejection, unless specifically permitted in the bid solicitation
Qualified bids (bids qualified or restricted by an attached statement)	Automatic rejection, unless the qualification is minor and does not have a material impact on the bid
Part bids (all items not bid)	Automatic rejection, unless specifically permitted in the bid solicitation
<b><u>Bid deposits (when required by bid solicitation)</u></b> (a) Signature missing from bid deposit (b) Bid deposit incomplete or not in the form specified in the bid solicitation (c) Issuing institution not approved by the Region (d) Insufficient or no bid deposit submitted	Bidder will be notified of irregularity. Failure to submit bid deposit that meets the requirement of the bid solicitation within two working days* will result in automatic rejection

<p>Bids containing minor errors or omissions that do not affect price or have a material impact on the bid</p>	<p>The Region may either:</p> <ul style="list-style-type: none"> <li>a) Notify bidder of the irregularity. Failure of bidder to correct/complete and initial correction/completion within two working days* will result in automatic rejection; or</li> <li>b) Accept the bid with the minor error or omission</li> </ul>
<p>Un-initialled changes to the submission that are minor and do not affect price or have a material impact on the bid</p>	<p>The Region may either:</p> <ul style="list-style-type: none"> <li>a) Notify bidder of irregularity. Failure of bidder to initial changes within two working days* will result in automatic rejection; or</li> <li>b) Accept the bid without changes initialled</li> </ul>
<p>Unit prices in the schedule of prices have been changed but not initialled</p>	<p>Bidder will be notified of irregularity. Failure to initial changes within two working days* will result in automatic rejection</p>
<p>Bids not completed in ink</p>	<p>Bidder will be notified of irregularity. Failure to supply bid in ink with original signature within two working days* will result in automatic rejection</p>
<p>Signatures not completed in ink or reproduced by mechanical or electronic means</p>	<p>Bidder will be notified of irregularity. Failure to supply bid in ink with original signature within two working days* will result in automatic rejection</p>

<p>Mathematical calculations that are not consistent with the unit prices or total prices that are not consistent with unit prices</p>	<p>Unit prices shall govern and the bid will be corrected accordingly</p> <p>The Region may either:</p> <ul style="list-style-type: none"> <li>a) Notify bidder of irregularity. Failure of bidder to initial changes within two working days* will result in automatic rejection; or</li> <li>b) Accept the bid without corrections initialled</li> </ul>
<p>Error in calculation of taxes</p>	<p>Pre-tax total price shall govern and the bid will be corrected accordingly</p>
<p>Bid documents which suggest the bidder has made a major mistake in calculations of bid</p>	<p>Consultation with the Commissioner of Legislative &amp; Planning Services and Corporate Counsel on a case-by-case basis, and where deemed necessary report to Committee and Council</p>

\* Where "working days" specified, this is from the hour the bidder is notified by Regional staff of irregularity.