



The Corporation of the County of Essex

By-Law Number 2024-08

A By-law to adopt a Procurement Policy for the Corporation of the County of Essex.

Whereas pursuant to Section 270(1)3. of the *Municipal Act, 2001*, S.O. 2001, c. 25, a municipality is required to adopt and maintain a policy with respect to its procurement of goods and services;

And whereas the Council for the Corporation of the County of Essex previously adopted a Procurement Policy pursuant to By-law No. 24-2019;

And whereas the Council for the Corporation of the County of Essex wishes to adopt a revised Procurement Policy;

And whereas the extent of the revisions to the Procurement Policy are such that it is impractical for the existing Procurement Policy to be amended.

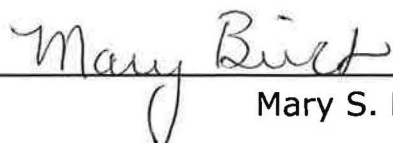
Now Therefore the Council of the Corporation of the County of Essex hereby enacts as follows:

- 1) **That** By-law 2024-08 be given three readings, and shall come into force and take effect after the final passing.
- 2) **That** immediately following the passing of this By-law 2024-08, By-law 24-2019 be and is hereby repealed.

Read a first, second and third time and Finally Passed this Seventh day of February, 2024.



Hilda MacDonald, Warden



Mary S. Birch, Clerk

Clerk's Certificate

I, Mary S. Birch, Clerk of the Corporation of the County of Essex, do hereby certify that the foregoing is a true and correct copy, of **By-law Number 2024-08** passed by the Council of the said Corporation on this **Seventh day of February, 2024.**

Mary S. Birch, Clerk
Corporation of the County of Essex



County of Essex Policy

Procurement Policy

Policy Number:	2019-003
Policy Type:	Corporate Policy
Approval Authority:	Essex County Council
Office of Responsibility:	Financial Services
Issuance Date:	2019-06-19
Revised on Date:	2024-02-07
Scheduled Review Date:	2029-02-07
Replaces Policy:	2004-002

1.0 Policy Purpose

1.1 The purpose of this Procurement Policy (the "Policy") is:

- (a) To ensure all procurement matters, including, but not limited to publicly funded purchases of Goods and Services, construction projects, and the disposal of surplus assets of the Corporation of the County of Essex (the "**County**"), are handled through a process that is open, fair, and transparent, and that is in compliance with current best practices in public procurement;
- (b) To protect the interests of the County, the public, and persons participating in the procurement process, by providing a clear statement of how Goods and Services will be procured;
- (c) To maintain the integrity of the procurement process by ensuring that, whenever possible, procurement processes are managed consistently and competitive methods of procurement are being used to attempt to secure the best value for the County;
- (d) To clearly define the circumstances in which non-competitive procurement processes may be used;

- (e) To clearly define the roles and responsibilities of the County, its staff, and any other person or entity involved at any stage of the procurement process;
- (f) To outline the process for co-operative purchasing; and
- (g) To outline the process for disposing of surplus goods.

2.0 Policy Statement

2.1 The goals of this Policy are as follows:

- (a) To acquire Goods and Services in as efficient and cost-effective manner as possible, demonstrating best value for money with a high focus on customer service, while maintaining fairness and transparency, and ensuring the County's operational requirements are met;
- (b) To ensure compliance with all applicable laws;
- (c) To develop, support and promote the highest professional standards in order to serve the public good;
- (d) To comply with and incorporate the requirements of the Accessibility for Ontarians with Disabilities Act, 2005, S.O.2005, c.11 (the "**AODA**"), as amended, in the procurement process of the County; and
- (e) To procure Goods and Services with due regard to the preservation of the natural environment.

3.0 General Terms

- 3.1 **Application.** This Policy applies to all procurements and/or disposal of surplus assets, except for the items listed in **Schedule "B"** (Exclusions from Procurement Policy Rules), appended to this Policy.
- 3.2 **Definitions.** In this Policy, terms first appearing in bold, shall have the meanings assigned to them, or as defined and listed in **Schedule "A"** (Definitions), appended to this Policy.
- 3.3 **General Responsibilities.** Anyone conducting a procurement and/or a disposal of surplus assets on behalf of the County must

comply with this Policy and any related procedures that may be implemented from time to time.

3.4 **Role of Council.** As provided for in Section 224 of the Municipal Act 2001, S.O. 2001, c. 25 (the "**Municipal Act**"), as amended, it is the role of Council to, among other things:

- (a) Represent the public and consider the well-being and interests of the County;
- (b) Develop and evaluate the policies of the County;
- (c) Ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- (d) Ensure the accountability and transparency of the operations of the County; and
- (e) Maintain the financial integrity of the County.

Despite the above obligations, Section 23.1 of the Municipal Act permits Council to delegate responsibilities to officers and employees of the County as Council deems appropriate, including responsibilities with respect to procurement and/or the disposal of surplus assets, but with Council being able to set such conditions and limits of that delegation as Council considers appropriate, and with Council being able to modify or revoke the delegation at any time.

3.5 **Chief Administrative Officer ("CAO") Responsibilities and Authority.** The CAO is the officer with ultimate responsibility for exercising general control over the activities contemplated by this Policy, including ensuring Department Heads, employees, and any and all other persons conducting procurements and/or disposing of surplus assets on behalf of the County comply with the requirements of this Policy.

3.6 **Treasurer Responsibilities.** The Treasurer is the officer delegated the responsibility for establishing procedures pursuant to this Policy. The Treasurer, directly or through her delegate(s), shall assist Department Heads, as appropriate, in the administration and compliance with this Policy and related procedures.

3.7 **Department Head Responsibilities.** Department Heads shall:

- (a) Ensure all departmental procurement needs within their service areas are provided to the Procurement Office following budget approval to afford the Procurement Office time to plan and allocate resources to effectively achieve the procurement of all purchases of the County in compliance with this Policy;
- (b) Be responsible for all procurement activities within their service areas and ensure compliance with this Policy, and any and all related procedures that are in place from time to time;
- (c) Make required reports to the Treasurer, CAO, Council or any other party regarding compliance with this Policy and any and all related procedures;
- (d) As necessary, delegate Approval Authority to appropriate staff while retaining the accountability for the actions of any delegates appointed by them;
- (e) Maintain procurement-related records in accordance with the County's Record Retention Policy; and
- (f) Select an appropriate departmental project lead (the "**Project Lead**") to oversee each procurement and/or disposal of surplus assets by the Department.

3.8 **Project Lead Responsibilities.** Project Leads shall:

- (a) Prepare technical specifications, quantity requirements, and/or scope of work for procurements;
- (b) Identify areas for continuous improvement in template documents in relation to non-routine procurements in order that appropriate terms and conditions can be developed by the Procurement Office, in consultation with the Treasurer and the County Solicitor;
- (c) Ensuring that the product received from the successful proponent conform with the contract terms, conditions, and technical specifications throughout the term of the contract; and

- (d) Manage the contract, including, without limitation, the verification that payments are made only for deliverables properly received, ensuring that timelines are met, approving, or obtaining necessary approvals, for such actions as subcontracting, assignment, amendment, renewal, and/or early termination of a contract, and the enforcement of warranty performance security in accordance with contract management procedures and in consultation with the County Solicitor.

3.9 **Manager and Supervisor Responsibilities.** Managers and Supervisors shall:

- (a) Ensure that all acquisitions and/or disposals of surplus assets overseen by them are done in accordance with this Policy, and any and all related procedures that are in place from time to time.
- (b) Monitor all contract expenditures against the awarded contract value and ensure compliance with limits approved by County Council in the budget;
- (c) Identify and address any non-compliance within their departments regarding this Policy and related procedures.

3.10 **Procurement Office Responsibilities.** The Procurement Office shall be responsible for:

- (a) Developing and implementing procurement procedures not specifically provided for in this Policy, in consultation with the CAO, Treasurer, and County Solicitor;
- (b) Coordinating procurements and disposal of surplus assets, except for:
 - (i) Procurements valued up to \$50,000.00 undertaken by Departments in compliance with this Policy and related procedures;
 - (ii) Non-competitive contracts for procurements made in an emergency, and with the non-competitive contract being approved by the appropriate Approval Authority, with a

- written report regarding the emergency situation and justifying the non-competitive procurement;
- (iii) Those items listed in **Schedule "B"** (Exclusions from Procurement Policy Rules); and
 - (iv) Any items which County Council declares, in its sole and absolute discretion, not to be subject to this Procurement Policy.
- (c) Preserving the integrity of the procurement process;
 - (d) Establishing procurement procedures consistent with this Policy;
 - (e) Ensuring the consistent application of this Policy and related procedures and providing procurement services in an efficient and diligent manner;
 - (f) Providing procurement advice and related services, including developing and maintaining the necessary forms, contract and tender templates for the purpose of fulfilling the procurement needs of the County;
 - (g) Addressing and, where possible, resolving issues or concerns that arise in respect of a procurement process or the application and interpretation of this Policy and related procedures, and seeking guidance from the Treasurer and/or County Solicitor as may be required;
 - (h) Determining the appropriate form and method of conducting the procurement process or the disposal of surplus assets;
 - (i) Administering the procurement process up to contract execution, including:
 - (i) Receipt, custody, and security of all submissions provided by proponents;
 - (ii) Rejecting submissions made by proponents that not qualified to bid by the terms of this Policy;
 - (iii) Assessing compliance with the mandatory requirements of a bidding process by determining whether

- irregularities are major or minor and rejecting submissions with major irregularities;
 - (iv) Overseeing the evaluation of submissions;
 - (v) Communicating with proponents from the commencement of the procurement process until contract execution; and
 - (vi) Otherwise managing the procurement process from commencement of the procurement process through award and final contract execution or purchase order issuance.
- (j) Overseeing the disposition of assets that have been declared surplus by the relevant Department Head;
 - (k) Developing and overseeing co-operative purchasing plans with other public bodies;
 - (l) Compiling and maintaining a collection of all policies approved by Council from time to time that affects, or may affect, this Policy specifically and the procurement process in general;
 - (m) Providing information to proponents related to this Policy, related procedures, and related templates, tools, systems, and practices of the Procurement Office;
 - (n) Providing relevant training to County staff responsible for or involved in the procurement process;
 - (o) Providing reports to Council with respect to all procurements and disposals completed on behalf of the County by the Procurement Office, on at least an annual basis; and
 - (p) Undertaking a general review of this Policy and related procedures annually, and completing a comprehensive review of this Policy and related procedures at least every five (5) years.

3.11 **Prohibitions.** In carrying out procurement activities for the County, a person must not:

- (a) Circumvent the requirements of this Policy including, but not limited to, biasing specifications or scheduling events to prevent Proponents from meeting requirements, dividing purchases to avoid the requirements of the Policy by any method;
- (b) Purchase any Goods and Services through County Contracts for personal use by or on behalf of any member of Council, employees of the County, and/or their immediate families;
- (c) Provide information to one Proponent to give that Proponent an advantage over other Proponents;
- (d) For procurements with a Dollar Value of \$100,000 or more, the following are strictly prohibited, unless otherwise approved by Council:
 - (i) Imposing a condition that, in order for a Proponent to participate in the procurement, the Proponent must have previously been awarded one or more contracts by the County; and
 - (ii) Requiring prior experience where it is not essential to the procurement.

3.12 **Failure to Abide by this Policy.** Any person who fails to act in accordance with the provisions of this Policy, may be subject to appropriate disciplinary action up to and including, for employees, termination of employment.

4.0 Procurement Approval Authority

4.1 **Funds Must Be Available.** Any person delegated Approval Authority shall ensure that, prior to engaging in any procurement activity, an approved budget exists sufficient to cover all costs related to the proposed procurement and resulting contract. In the case of multi-year contracts involving operating funds, the funding for future years of the contract can reasonably be expected to be made available if the funding is included in the current year's approved operating budget and is based on a multi-year forecast, subject to confirmation from the Financial Services Department. In the case of amendments to a contract requiring additional funds be applied to the original contract value, the additional funds must not

exceed fifty (50) percent of the original contract value, unless written authorization is provided by the CAO. Additionally, the Approval Authority for any amendment is determined by the revised total contract value.

4.2 **Approval Authority Considerations.** Procurement approvals must be obtained from the designated Approval Authority, or their duly appointed delegate, for the following:

- (a) For the commencement of the procurement process, prior to releasing an RFX or publishing a solicitation (whichever is earlier);
- (b) During the contract phase, prior to releasing the proposed Contract or Purchase Order to any potential Proponent; and
- (c) For any amendment to, or assignment of, a Contract. Only the CAO or delegate shall have the authority to approve terminating a Contract previously approved by Council and any other Contract.

4.3 **Authorization to Purchase – Delegation of Authority Bylaw.**

The County will maintain a list, made in accordance with the authority authorized by County Council through By-law (the "**Delegation of Authority By-law**"), that controls signature authorization(s) for all major financial transactions, including authority to commit funds and sign contracts. Only persons officially designated through the list maintained in accordance with the Delegation of Authority Bylaw, or their duly appointed delegates, shall have the authority to commit funds allocated to a budget in connection with their spending limits.

4.4 **Delegation of Signing Authority.** The CAO, or a Department Head with approval from the CAO, designates the persons within the Departments who are authorized to sign-off on financial and procurement transactions on accounts attributed to the Department. The Financial Services Department will maintain the list made pursuant to the Delegation of Authority By-law.

4.5 **Procurement and Contracting Approvals Based on Dollar Value.** Unlike the authority to commit funds in a budget, the procurement Approval Authority is based on the Dollar Value of the procurement or Contract as determined in accordance with Section 5

(Determining the Dollar Value). If, after a procurement process is completed and actual prices are known, it is determined that the Dollar Value of the Contract is elevated into a higher level of Approval Authority, then higher level Approval Authority shall be the Approval Authority for subsequent approvals and signatures.

- 4.6 **Delegation of Approval Authority.** Delegation of a person's Approval Authority may be made, as deemed appropriate by the person with Approval Authority, as long as the delegation is approved by the CAO and is in made accordance with the provisions of this Policy. Notwithstanding the foregoing provisions of this Section 4.6, Department Heads, at their discretion, may delegate approval authority to a manager or supervisor that reports to the Department Head, up to a maximum Dollar Value of \$100,000. Approval Authority that has been delegated may not be further sub-delegated. All delegations must be made in writing and signed by the delegating Approval Authority. To be valid, copies of delegations must be forwarded to the Financial Services Department and added to the list made pursuant to the Delegation of Authority By-law.
- 4.7 **CAO Must Seek Council Approval.** The CAO must seek Council approval prior to an award of Contract if:
- (a) The value of the Bid or the aggregate cost of a project is in excess of the Council approved budget by greater than ten (10) percent;
 - (b) There is a legislative or policy requirement for Council approval;
 - (c) There is an irregularity in a material procurement; or
 - (d) There is any other reason the CAO deems appropriate.
- 4.8 **Direct Purchase Recommendations where Dollar Value > \$100,000.** The Applicable Department Head and the Procurement Office must jointly submit a report to the Treasurer for any recommended Direct Purchase of \$100,000 or greater, outlining the justification relying on the list provided for in Section 9 (Direct Purchase).

If the Treasurer is the applicable "Department Head" for purposes of a procurement, the joint recommendation of the Treasurer and the Procurement Office for a Direct Purchase must be made to the CAO.

- 4.9 **Reports to Council.** Council shall be provided with regular reporting as follows:
- (a) The Procurement Office shall at least annually, provide Council with a report summarizing all procurement activities completed by the County for the year;
 - (b) Department Heads shall regularly, and at least quarterly, provide Council with a report summarizing contract awards greater than \$500,000 that are within budget and without irregularities;
 - (c) The Treasurer shall monitor and report to Council regarding procurements that were over budget, but less than 10% of the Council approved budget, and explain how the amount in excess of the Council approved budget is being covered; and
 - (d) A report shall always be provided to Council in advance of any approval of a procurement that is greater than 10% of the Council approved budget.
- 4.10 **Summary Table of Approval Authority.** The table below indicates the Approval Authority for a procurement as well as the persons having the authority to approve and execute contracts and related documentation in accordance with this Policy.

SUMMARY TABLE OF PROCUREMENT APPROVAL AUTHORITY

Type of Procurement	Dollar Value Canadian \$ exclusive of taxes	Procurement Strategy	Final RFx Document (1)(3)(6)	Contracts and Related documentation – (approval and signature) <i>See Note (1)</i>
Competitive Informal Request for Quotations (RFQ-I)	\$10,000 up to \$50,000	Department Head or Delegate <i>See Note (4)</i>	Department Head or Delegate	Department Head <i>See Note (4)(5)</i>
Competitive Formal Request for Quotations (RFQ-F)	>\$50,000 up to \$100,000	Department Head or Delegate <i>See Note (2)</i>	Department Head or Delegate	Department Head <i>See Note (4)(5)</i>
Competitive Public Tendering (RFPQ, RFP, RFT)	>\$100,000 up to \$500,000	Department Head and Procurement	Department Head and Treasurer	Co-signed by Department Head and Treasurer or CAO <i>See Note (5)</i>
Competitive Public Tendering (RFPQ, RFP, RFT, RFSO)	>\$500,000	Department Head and Procurement	Department Head and Treasurer or CAO	Co-signed by Warden and Clerk <i>See Note (5)</i>

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Type of Procurement	Dollar Value Canadian \$ exclusive of taxes	Procurement Strategy	Final RFx Document (1)(3)(6)	Contracts and Related documentation – (approval and signature) (1)
Direct Purchase Petty Cash	Under \$100	N/A	N/A	Department Head See Note (4)(5)
Direct Purchase Credit Card Purchase Order Contract	Under \$10,000	Department Head or Delegate See Note (2)	N/A	Department Head See Note (4)
Direct Purchase Purchase Order or Contract	\$10,000 up to \$100,000	Department Head and Treasurer See Note (4)	N/A	Co-signed by Department Head and Treasurer See Note (4)
Direct Purchase Contract	>\$100,000 up to \$500,000	Treasurer	N/A	Co-signed by Department Head and Treasurer or CAO
Direct Purchase Contract	>\$500,000	Treasurer	N/A	Co-signed by the Warden and Clerk

Notes

- (1) Where a competitive procurement results in a total Dollar Value that meets the Council approved budget, or is within ten (10) percent of the Council approved budget, the Contract can be executed by the Approval Authority provided for in this Policy. Procurements with irregularities must be bought before Council to seek Council approval prior to execution of any Contract.
- (2) Procurements resulting in Contract awards greater than \$500,000 require an information report to Council in accordance with Section 3.10 sub (0).
- (3) Regardless of the Approval Authority set out in the summary table, the higher-level Approval Authority may either approve or sign documents in place of lower level Approval Authorities, or override the decisions made by lower level Approval Authorities, if necessary.
- (4) The CAO, Treasurer, and Department Heads may delegate their Approval Authority, up to \$100,000.00, to a manager or supervisor level. To be valid, any delegation (permanent or temporary) must be documented in writing and communicated to the Financial Services Department in accordance with Section 4.6.
- (5) A Contract must not be approved and signed by the same person that conducted the competitive solicitation process, unless there is a co-signer. If the summary table provides otherwise, the next highest signing authority shall execute any Contract on behalf of the County.
- (6) Department Heads do not need to approve petty case expenses or Pos, with the signing authority for such expenses being made in accordance with the list maintained in accordance with the Delegation of Authority By-law.

5.0 Determining the Dollar Value

The Dollar Value is the County's estimated value, in Canadian dollars, exclusive of taxes, of the required purchase, and as determined in accordance with this Section 5.0.

When estimating the Dollar Value of a procurement, the County must:

- 5.1 Include the estimated total cost of contract, total value of the procurement over the entire duration of the Contract(s), including optional years, and include all forms of remuneration, including premiums, disbursements, fees, commissions, and interest. For greater clarity, travel expenses and per diems are not a "form of remuneration" unless they are included in a fixed fee contract and not reimbursed separately.
- 5.2 Include associated costs of installation, operation, maintenance, or manufacture for Goods.
- 5.3 If an individual requirement for a procurement results in the award of more than one Contract, or in the award of Contracts in separate parts ("**Recurring Contracts**") the calculation of the estimated maximum total value shall be based on:
 - (a) The value of all Recurring Contracts of the same type of Good or Service awarded during the preceding 12 months, adjusted to account for anticipated changes in the quantity or value of the Good or Service being procured over the following 12 months; or
 - (b) The estimated value of Recurring Contracts of the same type of Good or Service to be awarded during the 12 months following the initial contract award.
- 5.4 In the case of procurement by lease, rental or hire purchase of a Good or Service, or procurement for which a total price is not specified, the basis for valuation shall be:
 - (a) In the case of a fixed-term contract:
 - (i) If the term of the contract is 12 months or less, the total estimated maximum value for its duration; or

- (ii) If the term of the contract exceeds 12 months, the total estimated maximum value, including any estimated residual value;
- (iii) If the Contract is for an indefinite period, the estimated monthly installment multiplied by 48; or
- (iv) If it is not certain whether the Contract is to be a fixed-term Contract, the valuation shall be set in accordance with (ii) above.

6.0 Preparing the Procurement Documents

- 6.1 **Mandatory Use of Standard County Templates.** Where the County has implemented approved standard procurement templates and related documents ("**Standard County Templates**"), such Standard County Templates must be used in County procurement and contracting activities. The use of other forms of solicitation documents, agreements, templates or Contracts is only permitted where approved in advance by the Treasurer and County Solicitor.
- 6.2 **No Changes to Standard County Templates** Unless Pre-Approved. All proposed changes to the Standard County Templates and related documents shall be reviewed by the County Solicitor and approved by the CAO, Treasurer, and County Solicitor.
- 6.3 **Responsibility for Preparing RFX and Specifications.** The preparation of the RFX and related Specifications shall be the responsibility of the originating Department working with the support of the Procurement Office and must be approved by the appropriate Approval Authority prior to being posted or circulated publicly.
- 6.4 **Accessibility for Ontarians with Disabilities Act, 2005.** When preparing the Specifications, the Originating Department shall be knowledgeable of the AODA and the regulations thereunder, as amended, re-enacted or replaced from time to time, and apply those requirements with respect to procuring Goods and/or Services and in the development of Specifications, or be prepared to provide alternative accommodation for viewing drawings or other Specifications.

- 6.5 **Consultations.** When procuring Goods and/or Services that have impacts beyond the Originating Department, the Originating Department shall consult with any and all Departments that may be impacted by the procurement. Further, when acquiring Goods and/or Services that involve technology, computer hardware, and/or software, and that may impact the maintenance of records, the Originating Department shall consult with the IT Department to ensure that the procurement does not compromise the County's network or pose unnecessary cyber security risks and shall consult with the Records Management Office to ensure the procurement aligns with the County's Record Retention Policy.
- 6.6 **Mandatory Term.** All Contracts must include a provision permitting the County to terminate the contract for any reason upon ninety (90) days prior notice unless otherwise approved by the CAO.

7.0 Determining the Procurement Strategy

- 7.1 **Procurement Strategy.** The appropriate procurement strategy, including the procurement method and Contract, for a procurement will depend on whether the requirement falls under a Direct Purchase exemption listed in Section 9 (Direct Purchase) or must be competitively tendered. If the procurement falls under a Direct Purchase exemption, negotiations may be required prior to execution of the Contract as set out in Section 13 (Negotiation of Contracts).
- 7.2 **Procurement Methods.** The following table sets out the permitted procurement methods based on the Dollar Value of the procurement.

Dollar Value	Type of Procurement	Permitted Procurement Methods
Under \$10,000	Direct Purchase	<ul style="list-style-type: none"> • Petty Cash (up to \$100) • Purchasing Card • Purchase Order Recommended: • Three (3) where possible
\$10,000 - \$50,000	Informal Process	<ul style="list-style-type: none"> • RFQ-I (\$10,000-\$50,000) Optional: <ul style="list-style-type: none"> • RFQ
\$50,000 - \$100,000	Competitive Process	<ul style="list-style-type: none"> • RFQ-F (\$50,000-\$100,000) Optional: <ul style="list-style-type: none"> • RFPQ, RFP, RFT, RFSO
>\$100,000	Open Competitive Process	<ul style="list-style-type: none"> • RFPQ, RFP, RFT, RFSO • RFQ

7.4 **Procurement Method Selection.** In selecting the appropriate procurement method, regard should be had to using the most efficient and effective method permitted in consideration for the time required to prepare the procurement document as compared to the Dollar Value. For example, if a Dollar Value is less than \$10,000, while not strictly prohibited, it is generally not efficient to spend resources preparing a detailed RFT. In such a circumstance, use of a Purchasing Card is more efficient and therefore more appropriate.

8.0 Procurement Methods

8.1 There are a variety of procurement methods that may be used for conducting purchases on behalf of the County including but not limited to:

- (a) Low Dollar Value Procurements (under \$10,000)
- (b) Request for Quotations - Informal (up to \$50,000)
- (c) Request for Quotations - Formal (>\$50,000 up to \$100,000)
- (d) Request for Tenders (>\$100,000)
- (e) Request for Proposals (>\$100,000)

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- (f) Request for Standing Offer (>\$100,000)
 - (g) Request for Supplier Pre-Qualification (for selective tendering)
 - (h) Direct Purchase
 - (i) Cooperative Purchasing
- 8.2 Procurements with a Dollar Value of over \$100,000 shall be conducted in accordance with any applicable legislative requirements and this Policy.
- 8.3 The Procurement Office, in consultation with the Treasurer and the County Solicitor, shall implement procedures and templates in support of the procurement methods described in this Section 8.
- 8.4 **Low Dollar Value Procurements:** Purchasing Card or Purchase Order (under \$10,000) or Petty Cash (under \$100)
- (a) A Purchasing Card, Purchase Order, or Petty Cash (Not to exceed \$100) may be used for Low Dollar Value Procurements.
 - (b) Staff are encouraged to research or attempt to obtain prices from at least three (3) different Vendors prior to making purchases under \$10,000.00, especially when the Dollar Value is likely to exceed \$1,000.00.
- 8.5 **Informal Request for Quotations ("RFQ-I") (\$10,000 up to \$50,000):**
- (a) For procurements with a Dollar Value of \$10,000 and up to \$50,000, the originating Department may use an informal Request for Quotations ("RFQ-I") and conduct an Invitational Competitive Process by requesting quotes and or proposals from three (3) or more potential Proponents.
 - (b) A minimum of three (3) written quotes are required to ensure a competitive process. When three (3) written quotes cannot be obtained, Department Heads may waive this requirement, but will only do so where staff has demonstrated to the satisfaction of the Department Head, in writing, why a minimum of three (3) quotes cannot be obtained.

8.6 Formal Request for Quotations ("RFQ-F") (\$50,000 up to \$100,000):

- (a) For procurements with a Dollar Value of \$50,000 and up to \$100,000, the originating Department may use a formal Request for Quotations ("RFQ-F") and conduct an Invitational Competitive Process by sending the RFQ-F to a select number of potential Proponents. The RFQ-F is a short solicitation document and seeks a price quote from the potential Proponent rather than a formal written proposal.
- (b) A minimum of three (3) written quotes are required to ensure a competitive process. When three (3) written quotes cannot be obtained, Department Heads may waive this requirement, but will only do so where staff has demonstrated to the satisfaction of the Department Head, in writing, why a minimum of three (3) quotes cannot be obtained.

8.7 Request for Tenders ("RFT") (>\$100,000):

An RFT is generally used when tendering for Construction Services. An RFT provides bidders with detailed technical specifications and seeks the lowest cost of Services.

8.8 Request for Proposals ("RFP") (>\$100,000):

The RFP is the preferred method of procurement where:

- (a) The County is looking for the best value proposal, meaning the decision on preferred Proponent and the Goods and/or Services sought is not based solely on the lowest priced Goods and/or Services;
- (b) The Specifications are not so detailed as to allow for an evaluation on price alone; or
- (c) When solutions suggested by Proponents are being sought to perform a certain function or service.

8.9 Request for Standing Offer ("RFSO") or Standing Arrangement ("RFSA"):

- (a) The RFSO is a procurement method that results in a "Standing Arrangement" with the successful Proponent. A "**Standing**

Arrangement means an arrangement with a successful Proponent under which the County **may** buy, but is not committed to buy, Goods or Services from the successful Proponent over a period specified in the "Standing Arrangement". Unlike an RFPQ, the Standing Arrangement includes all terms applicable to the procurement, such as the cost of the Goods or Services and applicable delivery requirements.

- (b) An RFSO or RFSA may be used where the anticipated need for Goods or Services is inconsistent but recurring (such as for office supplies or other consumables, services e.g. tree trimming, etc.) and the County wishes to consolidate all such recurring purchases under a single Proponent, or several Proponents if that is deemed more favourable and beneficial to the County, in order to secure the best prices over the term of the resulting Standing Arrangement.
- (c) In each RFSO or RFSA, the County must indicate how subsequent purchases will be made from a Proponent under a Standing Arrangement. For example, if three (3) separate Proponents will be contracted with under a Standing Arrangement, also called a "standing offer agreement", the RFSO or RFSA must indicate if the Proponents will be called upon to supply the Goods or Services on a rotational basis, whether there will be quotes requested from each Proponent prior to a decision being made on who will supply the Goods or Services, whether a Proponent will be given the right of first refusal over all requirements over other Proponents, or any other approach the County may deem advisable and appropriate in its absolute discretion.
- (d) Purchase commitments under a RFSO or RFSA are only made upon the issuance of a Purchase Order or call-up made pursuant to the terms of the Standing Arrangement.

8.10 **Prequalification of Proponents ("RFPQ")/Selective Tendering (Rostering):**

- (a) The County may elect, in certain circumstances, as outlined in Section 8.10 sub (iii) below, to maintain a list of prequalified Proponents of Goods or Services on a roster.

- (b) Rosters shall be maintained for a term not to exceed three (3) years at which time the Department shall work with the Procurement Office to issue a RFPQ to establish a new roster.
- (c) Prequalification of Proponents should be considered in the following circumstances:
 - (i) There is a business need to ensure Proponents have the capacity to perform the work as a condition of participating in a RFX process and there could be a substantial impact on County operations if the work is not satisfactorily performed the first time;
 - (ii) Where the requirement for the specific Goods or Services often arise unexpectedly and efficiency in procurement is necessary to ensure the County's operational requirements are always met; and/or
 - (iii) Any other circumstances deemed appropriate by Department Head and approved by the CAO.

8.11 Once a roster of pre-qualified Proponents of specific Goods and Services is established, there is no further requirement to publish tender notices when a requirement for those Goods or Services arise. The RFX may be submitted directly to the roster of prequalified Proponents without any requirement to otherwise publish or post the RFX.

9.0 Direct Purchase

The County may procure Goods and Services without a competitive process in the circumstances described below, but with all Direct Purchase procurements being justified in advance and in writing based on one of the exemptions below, or as further described in **Schedule "B"** appended hereto, and approved by the Approval Authority as set out in Section 4.0 (Approval Authority) of this Policy.

9.1 **No Compliant Bids Received:** The County may, provided that the procurement documents are not substantially modified, complete a Direct Purchase, if:

- (a) No Bids were submitted or no Proponents requested participation;

- (b) No Bids that conform to the essential requirements of the RFX documentation were submitted;
- (c) No Proponents satisfied the conditions for participation; or
- (d) There is indication of collusion on the submitted Bids.

9.2 **Only One Supplier:** The County may complete a Direct Purchase if the Goods or Services being sought can be supplied only by a particular Supplier and no reasonable alternative or substitute Goods or Services exist for any of the following reasons:

- (a) The requirement is for a work of art;
- (b) The protection of patents, copyrights, or other exclusive rights;
- (c) Due to an absence of competition for technical reasons;
- (d) The supply of Goods or Services is controlled by a Supplier that is a statutory monopoly;
- (e) To ensure compatibility with existing Goods, or to maintain specialized Goods that must be maintained by the manufacturer of those Goods or its representative;
- (f) Work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
- (g) Work is to be performed on a leased building, or related property, or portions thereof, that may be performed only by the lessor; or
- (h) The procurement is for subscriptions to newspapers, magazines or other periodicals.

9.3 **Additional Deliveries:** The County may complete a Direct Purchase if it is for additional deliveries by the original Supplier of Goods or Services that were not included in the initial procurement, if a change of Supplier for such additional Goods or Services:

- (a) Cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with

existing equipment, software, Services, or installations procured under the initial procurement; or

- (b) Would cause significant inconvenience or substantial duplication of costs for the County.

9.4 **Commodity Market Goods:** The County may complete a Direct Purchase for Goods purchased on a commodity market such as electricity, postal services, postage, water, fuel, natural gas, furnace oil.

9.5 **Prototypes:** The County may complete a Direct Purchase if the County procures a prototype or a first Good or Service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first Good or Service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the Good or Service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

9.6 **Exceptionally Advantageous Conditions:** The County may complete a Direct Purchase for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular Suppliers.

9.7 **Winner of Design Contest:** The County may complete a Direct Purchase if a contract is awarded to a winner of a design contest provided that:

- (a) the contest has been organized in a manner that is consistent with this Policy, in particular relating to the publication of an RFX; and
- (b) the participants are judged by an independent review panel with a view to a design contract being awarded to the successful Proponent.

9.8 **Confidential or Privileged Goods or Services:** The County may complete a Direct Purchase if Goods or consulting Services to be

purchased are regarding matters of a confidential or privileged nature and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

9.9 **Emergency:** The County may complete a Direct Purchase if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the County, and the Goods and/or Services could not be obtained in time using an open and competitive process. An Emergency is an exceptional situation that could include:

- (a) An imminent or actual danger to the life, health or safety of any person;
- (b) An imminent or actual danger of injury to or destruction of real or personal property;
- (c) An imminent or actual unexpected interruption of a public service essential to the community;
- (d) An emergency as defined by the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 and the emergency plan formulated thereunder by the County; and
- (e) An imminent or actual spill of a pollutant as contemplated by Part X (Spills) of the Environmental Protection Act.

9.10 **Dollar Value is Less than \$10,000.** The County may complete a Direct Award if the Dollar Value of the procurement is less than ten thousand dollars (\$10,000).

9.11 **Specific Exemption.** The County may complete a Direct Purchase if the purchase is specifically exempted from compliance with this Policy as provided for in **Schedule "B"** appended hereto.

10.0 Cooperative Procurement (Buying Groups)

10.1 A Department may participate in a Cooperative Procurement process, such as with other municipalities and/or government agencies to leverage their collective purchasing power, and/or in a procurement process administered by a Buying Group. A Department's participation in either a Cooperative Procurement

process or through a Buying Group requires, in advance of participation, the appropriate approvals from the designated Approval Authority are obtained based on the anticipated Dollar Value of the procurement.

- 10.2 While participating in a Cooperative Procurement process or through a Buying Group, the County shall:
- (a) To the extent practicable ensure that the procurement is carried out in a manner consistent with this Policy; and
 - (b) Publish a notice of its participation in a Cooperative Procurement process or with a Buying Group on the tendering website normally used by the County, and the notice shall provide potential Proponents with information about how to participate in such Cooperative Procurement process and/or how to submit a bid to the Buying Group.

11.0 Unsolicited Proposals

- 11.1 The County may, from time to time, be approached by proactive Proponents seeking to provide Goods or Services to the County. For example, a proactive Vendor may offer to allow the County to test or pilot, a Good or Service, or suggest that the County consider an innovative approach or solution to an existing County problem.
- 11.2 Outside of any relevant RFX process, County staff may engage in discussions with potential Proponents on opportunities that exist in the market as part of informing themselves of market changes and opportunities. Before engaging in any such discussions, however, the Proponent must always be advised that any procurement or contract can only be initiated pursuant to this Policy and any related procedures of the County.
- 11.3 If an unsolicited proposal (document) is received from any potential Proponent, the unsolicited proposal should be forwarded to the Treasurer, Procurement Office, and the appropriate Department Head. The Department Head, with the assistance of the Procurement Office, shall first assess such proposals on the basis of whether they align with the County's strategic goals and objectives, do not circumvent the County's regular procurement processes, and the proposal's scale and scope align with the requirements and funding ability of the County.

- 11.4 If it is determined that there is a legitimate need for the Goods or Services offered by way of an unsolicited proposal, then the procurement process shall be conducted in accordance with this Policy.

12.0 Publishing Tender Notices / Advertising Opportunities

- 12.1 All RFX notices and Open Competitive Processes exceeding a Dollar Value of \$100,000 shall be advertised using a tender notice.
- 12.2 Each Tender Notice must be in the form approved by the Procurement Office, in consultation with the Treasurer and County Solicitor, and advertised on the tendering website authorized by the CAO for posting Tender Notices, from the date that the RFX is issued up to and including the date on which the RFX closes.
- 12.3 Advertising opportunities are to be posted to the County's website.

13.0 Negotiation of Contract

- 13.1 The County may only conduct negotiations if:
- (a) There is a Direct Purchase made in accordance with Section 9.0 of this Policy above;
 - (b) There is only one submission received;
 - (c) The highest evaluation score or lowest compliant bid exceeds the Council Approved Budget; or
 - (d) The County has indicated its intent and ability to conduct negotiations in the Tender Notice or the RFX.
- 13.2 The County shall ensure that any elimination of Proponents participating in negotiations is carried out in accordance with the evaluation criteria set out in the Tender Notice, RFX documentation, this Policy, and any applicable procedures and/or Standard County Template.
- 13.3 In the course of negotiations, the County shall not give an unfair advantage to, or discriminate against, a bidder.

- 13.4 In the negotiation of a Contract, unless otherwise approved by the CAO, the County shall use the County's Standard County Template version of the Contract as the basis of any Contract negotiation. Only the County CAO, on the advice of the County Solicitor, may authorize substantive changes to the County's Standard County Template version of the Contract.

14.0 Cancellation of Solicitations

- 14.1 The Procurement Office shall be, and is, authorized to cancel any Solicitation where:
- (a) There is a request to do so by the Department Head for whose Department the Solicitation was initiated, where the costs submitted by Proponents exceeds the funding provided for in the Council Approved Budget;
 - (b) In the opinion of the Department Head for whose Department the Solicitation was initiated:
 - (i) A change in the scope of work or other Solicitation requirements are necessary and therefore a new Solicitation should be issued; or
 - (ii) The Goods and/or Services identified in the Solicitation no longer meet the Department's requirements.
 - (c) In the opinion of the Procurement Office the integrity of the procurement process has been compromised and cannot be remedied without cancelling the Solicitation; or
 - (d) The Solicitation has failed to elicit competition or any qualified Proponent.

15.0 Authority to Execute Contracts and Related Documentation

- 15.1 Only the designated Approval Authority may execute Contracts and related documents on behalf of the County.
- 15.2 If an amendment to a Contract increased the Dollar Value of the Contract above the value the previously designated Approval Authority is permitted to grant approval for, then the appropriate

higher level Approval Authority is required to approve and sign that amendment, and any further amendments and documents relating to that Contract.

16.0 Bidder Debriefing (>\$100,000)

- 16.1 The County shall offer debriefs to unsuccessful Proponents of an Open Competitive Process by providing bidders with an explanation of the reasons why the County did not select its Bid. The debriefing shall include the Department Head, or applicable Manager or Supervisor, and the Procurement Office. The debrief session may be held in person, by telephone, by videoconference, or through email communication, at the discretion of the Procurement Office.

17.0 Bidder Complaint Resolution

- 17.1 The County encourages the use of open and competitive procurement processes and promotes the objective of equitable treatment of all potential Proponents.
- 17.2 Any Proponent that wishes to challenge or is otherwise aggrieved by a decision made by the County, its staff, or Council under this Policy is required to provide a written complaint to the Manager of Procurement and Compliance, within five (5) business days of the date of the award or other decision.
- 17.3 Jointly the Manager of Procurement and Compliance and the applicable Department Head shall respond to the complaint within ten (10) business days following receipt of the complaint.
- 17.4 In the event an aggrieved Proponent is not satisfied with the response provided as per Section 17.3 above, they can request a meeting with the Manager of Procurement and Compliance. The aggrieved Proponent's request for a meeting shall be in writing and shall provide a detailed statement of the grounds of the complaint, including copies of relevant documents, and identify the form of relief requested.
- 17.5 If no resolution satisfactory to both parties has been achieved at the meeting provided for in Section 17.4 above, the aggrieved Proponent shall have three (3) business days from the date of the meeting with the Manager of Procurement and Compliance to make

a formal written request to meet with the Manager of Procurement and Compliance, the Department Head, the Treasurer, and the CAO regarding the aggrieved Proponent's complaint. The written request for a meeting pursuant to this Section 17.5 shall include the following information:

- (a) A specific description of each act or omission alleged to have materially breached the procurement process provided for in this Policy;
- (b) A specific identification of the provision(s) in this Policy, the Solicitation, or procurement procedure that is alleged to have been breached;
- (c) A precise statement of the relevant facts;
- (d) An identification of the issues to be resolved;
- (e) The aggrieved Proponent's arguments, including any relevant supporting documentation; and
- (f) The aggrieved Proponent's requested remedial action.

17.6 The Department Head, Treasurer, and CAO will provide the aggrieved Proponent with a final decision in regarding the complaint in writing, and which response the County will endeavour to provide within ten (10) business days, and which decision, following any required consultation with the County Solicitor, may:

- (a) Dismiss the aggrieved Proponent's complaint, either in whole or in part; or
- (b) Accept the aggrieved Proponent's complaint, either in whole or in part, as being valid and direct the Procurement Office to take appropriate remedial action, including, but not limited to, rescinding the award of any Contract, cancelling the Solicitation, and declaring that a fresh Solicitation is to be posted.

18.0 Contract Management

18.1 Responsibility for Managing the Contract:

- (a) Each Department Head or their delegate (the "**Contract Manager**") is responsible for ensuring all Contract requirements are satisfied by the successful Proponent throughout the term of any Contract awarded, including ensuring bonds, insurance certificates, WSIB, and/or any other specified requirements, are provided in such manner as is required by the provisions of the Contract.
- (b) The Contract Manager must ensure:
 - (i) Proper oversight of the successful Proponent;
 - (ii) Proper inspection of Goods and Services throughout the term of the Contract;
 - (iii) Prompt reporting and addressing of deficiencies in performance of the Contract; and
 - (iv) Proper records are kept of the successful Proponent's performance.
- (c) All Contract documentation must be maintained in a central location in accordance with the applicable records management and retention policies of the County.
- (d) As a condition of paying for Goods and Services:
 - (i) Contract Managers must ensure and certify that Goods and Services supplied by the successful Proponent conform with the requirements of the Contract; and
 - (ii) Invoices must be submitted in accordance with the provisions of the Contract.

18.2 **Performance Evaluation:**

- (a) At the completion of every Contract where the Solicitation identified a performance evaluation review will be performed for Goods or Services, the Contract Manager or relevant Department Head should complete a performance evaluation ("**Performance Evaluation**"). Such Performance Evaluation must be kept in accordance with the records management and retention policies of the County and be available for review by the Procurement Office.

- (b) Documented poor performance or non-performance on any County Contract shall be reported to the Procurement Office and may be used to determine the eligibility of a Proponent to:
 - (i) Continue to provide Goods or Services to the County on a current Contract;
 - (ii) Remain a qualified Proponent on a roster; and/or
 - (iii) Participate in future procurements as set out in Section 19 (Bidder Eligibility) of this Policy.

19.0 Disposal of Surplus Assets

- 19.1 Department Heads may submit to the Financial Services Department from time to time, or upon request, a list of any goods or assets, which may include, but is not limited to, furniture, vehicles, equipment, stocks and other assets, which are obsolete, damaged, available for trade-in, or surplus to that Department's needs ("**Surplus Assets**").
- 19.2 All Surplus Assets shall first be offered to other Departments within the County.
- 19.3 All Surplus Assets not required by any other Department within the County may, at the discretion of the CAO, be offered to public sector agencies and charitable organizations within the County prior to any public disposal procedure, donation or sale being conducted in accordance with this Policy.
- 19.4 Surplus Assets may be donated to non-profit agencies or non-profit institutions for educational or teaching purposes only. Donated items shall not be re-sold.
- 19.5 Department Heads shall have the authority to trade in, sell or dispose of all Surplus Assets, by seeking quotes, or public auction through the municipal website or any other online classified site(s).
- 19.6 Surplus Assets which require special training and/or licensing to operate, buy, or sell, may result in the Procurement Office, requiring in its sole and absolute discretion, proof of a Proponent having all necessary licenses, training, etc. before a sale is completed to the said Proponent. Should a Proponent be unable to unwilling to

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provide the documentation required by the Procurement Office, the Proponent may be excluded from opportunity to purchase the Surplus Assets, again, at the sole and absolute discretion of the Procurement Office.

- 19.7 The respective Department shall be credited with the net proceeds, if any, from the disposal of its Surplus Assets unless otherwise agreed.
- 19.8 Surplus Assets shall not be sold directly to an employee or to a member of Council, although this does not prohibit any employee or member of Council from purchasing Surplus Assets being sold through a public process.
- 19.9 This Policy does not apply to the disposal of those Surplus Assets described in Schedule "B" appended to this Policy.

20.0 Bidder Eligibility

- 20.1 Without limiting or restricting any other right or privilege of the County and regardless of whether or not a Bid otherwise satisfies the requirements of a Solicitation, the County may, through the written decision of the Treasurer in consultation with the County Solicitor, bar a Proponent, refuse any Bid from a Proponent, or remove a Proponent from a prequalified roster of Proponents where:
- (a) The Proponent has previously provided unsatisfactory Goods and/or Services to the County, which has been documented as part of the Performance Evaluation provided for in Section 18.1 sub (b) of this Policy;
 - (b) The Proponent has officers, directors, or key employees, who have been affiliated with a Proponent that has been prohibited from bidding based on the Performance Evaluation provided for in Section 18.2 of this Policy;
 - (c) The Proponent, or an officer or director of the Proponent, is or has been engaged, either directly or indirectly through another corporation or personally, in a legal action against the County, the County's elected representatives, the County's appointed officers, and/or the County's staff in relation to:
 - (i) Any other Contract;

- (ii) Any matter arising from the County's exercise of its powers, duties, or functions; or
- (iii) A dispute and/or an appeal of the award of a Contract by the County to another Proponent.

In determining whether or not to reject a Bid under this clause (c), the County will consider, in its sole and absolute discretion, whether the litigation is likely to affect the Proponent's ability to work with the County, its consultants, and/or representatives, and with the County's experience with the Proponent indicates that the County is likely to incur increased staff and/or legal costs in the administration of the Contract if it is awarded to the Proponent;

- (d) There is supporting evidence that the commercial integrity of the Proponent could be impaired by the act(s) or omission(s) of such Vendor including but not limited to any one or more of the following having occurred within the five (5) year period immediately preceding either the date on which Solicitation is posted or while the Proponent is on a prequalified roster maintained by the County:
 - (i) The County commenced litigation against the Proponent for wrongdoing;
 - (ii) Acts or omissions resulting in a claim by the County under any security submitted by the Proponent on a Solicitation, including, but not limited to, a Bid bond, a performance bond, or warranty bond;
 - (iii) The failure of the Proponent to pay, in full, all outstanding payments and, where applicable, interest and costs, owing to the County by such Proponent, after the County has made demand for payment of same;
 - (iv) The Proponent has refused to follow reasonable directions of the County to cure a default under any prior Contract with the County, as and when required by the County;

- (v) The Proponent has previously failed to finalize a Contract with the County after the Proponent's Bid was accepted by the County;
- (vi) The Proponent has threatened, intimidated, harassed, or otherwise interfered with an attempt by any other prospective Proponent to submit a Bid to the County or to perform a Contract awarded by the County to another Proponent;
- (vii) The Proponent has threatened, intimidated, harassed, assaulted, and/or otherwise improperly interfered with an official, employee, representative, agent, independent consultant, and/or contractor of the County in the performance of their duties, or in any way attempted to improperly influence such persons;
- (viii) The Proponent discussed or communicated, directly or indirectly, with any other Proponent, or their agent or representative, about the preparation of the Proponent's Bid before it is submitted to the County, including, but not limited to, any comparison of pricing. The only exception to this is if a joint venture Bid is being prepared and is permitted by the County;
- (ix) The Proponent has, on one or more occasions, in the performance of a Contract with the County, deliberately, with wilful blindness, or negligence, save and except an inadvertent error which the Proponent corrected to the satisfaction of the County once identified:
 - 1. Over-billed, double-billed, and/or retained a known over-payment by the County, or has failed to notify the County of an over-payment or duplicate payment;
 - 2. Billed for items not supplied by the Proponent;
 - 3. Billed for items of a higher grade, while actually supplying items of an inferior grade;

4. Made a misrepresentation as to the quality of origin of Goods, their functionality, or suitability for a purpose, or their performance or characteristics;
 5. Submitted false or misleading information to the County;
 6. Acted in conflict with the County's interests;
 7. Misappropriate any property or right of the County, in any form; and/or
 8. Committed any other form of deceptive practice, that in the sole and absolute discretion of the County, would impair the commercial relationship to the degree that the County will have difficulties working with the Proponent.
- (x) The Proponent has committed any other act or omission that the County deems to impair the commercial relationship between the County and the Proponent to the degree that working with the Proponent is not in the best interests of the County.
- 20.2 Further to the provisions of Section 20.1 above, and without limiting or restricting any other right or privilege of the County, and regardless of whether or not a Bid otherwise satisfies the requirements of a Solicitation, the County may, through the written decision of the Treasurer in consultation with the County Solicitor, bar a Proponent, refuse any Bid from a Proponent, or remove a Proponent from a prequalified roster of Proponents where there is supporting evidence that it would not be in the best interests of the County to enter into a Contract with the Proponent, including but not limited to:
- (a) The conviction of that Proponent or any person with whom that Proponent is not at arm's length within the meaning of the Income Tax Act (Canada) of an offence under any taxation statute in Canada;
 - (b) The conviction or finding of liability of that Proponent, whether in Canada or elsewhere, and whether of a civil, quasi-criminal or criminal nature, of moral turpitude, including, but not

- limited to, fraud, theft, extortion, threatening, influence peddling, and/or fraudulent misrepresentation;
- (c) The conviction or finding of liability of that Proponent under any environmental legislation, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Proponent for the environmental well-being of the communities in which it carries on business;
 - (d) The conviction or finding of liability of that Proponent relating to product liability or occupational health or safety, whether in Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Proponent for the health and safety of its workers or customers;
 - (e) The conviction or finding of liability of that Proponent under financial securities legislation, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Proponent for its stakeholders; and/or
 - (f) There is supporting evidence that the Proponent has been declared bankrupt or is insolvent.
- 20.3 For the purposes of this Section, a reference to a Proponent shall also include: an officer, a director, a majority or controlling shareholder, or a member of the Proponent, if a corporation; a partner of the Proponent, if a partnership; any corporation to which the Proponent is an affiliate of or successor to, or an officer, a director, or a majority or controlling shareholder of such corporation; and any person with whom that the Proponent is not at arm's length within the meaning of the Income Tax Act (Canada).

21.0 Employee Conflicts of Interest

- 21.1 No County Councillor, appointed officer, or employee of the County shall have an interest, either directly or indirectly, in any competitive Bid or Contract of the County, unless such interest has been declared and such employee is excluded from involvement with the procurement decisions related to the Contract, or unless such

interest is exempt pursuant to the provisions of the Municipal Conflict of Interest Act, as amended.

- 21.2 Employees must declare any pecuniary interest, either direct or indirect, in writing to their Department Head and Procurement or Treasurer indicating the specific nature of the conflict and shall be excluded from any involvement with the procurement of such Goods and/or Services.

22.0 Statement of Ethics for Public Procurement

- 22.1 The following ethical principles **shall** govern the conduct of every County employee delegated with the authority to procure:
- (a) The County's employees must conduct themselves with the utmost integrity in carrying out their duties as public servants including avoiding any apparent, potential, and/or actual conflicts of interest;
 - (b) Every County employee shall abide by the highest ideals of honour and integrity in all professional relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- 22.2 Employees have the following responsibilities to the County pursuant to this Policy:
- (a) To follow the lawful instructions, By-laws, policies, and procedures of the County;
 - (b) To understand the limits of the authority granted by this Policy;
 - (c) To avoid activities which would compromise, or give the perception of compromising, the best interests of the County and the public being served; and
 - (d) To obtain the maximum benefit for funds spent as agents for the County.
- 22.3 Employees have the following obligations with respect to relationships with Proponents:

- (a) To maintain and practice, to the highest degree possible, business ethics, professional courtesy, and competence in all transactions;
- (b) To undertake all purchasing activities without bias;
- (c) To strive to obtain maximum value for each expenditure;
- (d) To consistently reject any and all offers of favours, gifts, gratuities, and/or loans from Proponents, regardless of the value;
- (e) To adhere to and protect Proponent' business and legal rights to confidentiality over pricing information, trade secrets, and other proprietary information shared with the County as part of the bidding process.

23.0 Procurement Policy and Reviews

- 23.1 The Manager of Procurement and Compliance shall from time to time and not less than once per year consult with the Department Heads to obtain feedback with respect to this Policy.
- 23.2 Based on the consultation provided for in Section 23.1 above, the Treasurer shall prepare an annual report to the CAO recommending any changes to this Policy.
- 23.3 In addition to the requirements in Sections 23.1 and 23.2 above, a formal review of this Policy shall take place at least every five (5) years, or sooner should it be legislatively required.
- 23.4 Any changes to this Policy require the approval of Council to be effective.

24.0 Summary of Amendments

Date	Amendment(s)
2004-12-15	By-law 63-2004 establishes Policy 2004-02 Purchasing Policy
2007-04-18	Council Report 2007-R12-FIN-0418-RM updates policy 04-002 to allow local tier to purchase surplus assets. Approved by Council Resolution -2007
2009-04-01	Council Report 2009-R11-FIN-0401-RM updates 04-002 to adopt 'buy Canadian'. Approved by Council Resolution - 2009
2019-06-19	Council Report 2019-0619-FIN-R013-SZ updated to include trade agreement language and By-law 24-2019. Approved by Council Resolution 122-2019.
2024-02-07	Council Report 2024-0207-FIN-R01-SP-DMS 5-year review of policy included updates to the Ability to Award if Within Council Approved Budget, Reporting and Contract Negotiations, Disposal of Surplus Assets and other administrative updates to clarify and strengthen policy. <i>(if approved add - Approved by Council Resolution xxx-2024)</i>

Schedule "A" – Definitions

Words and phrases used in this Policy and related procedures have the following meanings, unless expressly stated otherwise:

"**AODA**" means the Accessibility for Ontarians with Disabilities Act, 2005, S.O.2005, c.11, as amended.

"**Approval Authority**" means the authority to approve: (a) procurements; and (b) contract award decisions and/or the signing of contracts, including any changes to such procurements or contracts.

"**Bid**" means a response to an RFX issued by the County.

"**Buying Group**" means a cooperative arrangement in which individual members of a formal Buying Group administer the procurement function for specific contracts for the group, and more formal corporate arrangements in which the Buying Group administers procurement for group members. Buying Groups may consist of a variety of entities, including any combination of procuring entities, private sector entities, or not-for-profit organizations.

"**CAO**" means the Chief Administrative Officer of the County.

"**Contract**" means a written agreement for the purchase of Goods, Services, equipment, or construction and can include a Purchase Order.

"**Contract Manager**" has the meaning assigned in Section 18.1.1 and who shall carry out the duties enumerated in Section 18.1 of this Policy.

"**Cooperative Procurement**" means the purchase of Goods or Services with other municipalities and/or government agencies to leverage their collective purchasing power.

"**Council**" means the Council of the Corporation of the County of Essex.

"**County**" means the Corporation of the County of Essex.

"**Department**" or "**Originating Department**" means the County department initiating the acquisition of the Goods or Services.

"**Department Head**" means an employee of the Corporation of the County of Essex in charge of a Department, or his or her designate.

"Delegation of Authority Bylaw" has the meaning assigned in Section 4.3.

"Direct Purchase" means acquiring a good or service directly from a Supplier without a competitive process, and as further described in Section 9.0 (Direct Purchase).

"Dollar Value" is the County's estimated value, in Canadian dollars, exclusive of taxes, of the requirement determined, as set out in Section 5.0 (Determining the Dollar Value) of this Policy.

"Emergency" has the meaning assigned in Section 9.9.

"Goods" includes supplies, equipment, materials, products, software, furniture, structures and fixtures to be delivered, installed, and/or constructed.

"Invitational Competitive Process" means a general process where the County acquires Goods or Services by inviting a select number of Suppliers to submit a Bid.

"Legislation" means all applicable laws, regulations, by-laws, policies and trade treaties/agreements.

"Low Dollar Value Procurements" means a procurement valued at less than \$10,000.00.

"Municipal Act" means Municipal Act 2001, S.O. 2001, c. 25, as amended.

"Officer" is a high-level managerial official of the County.

"Open Competitive Process" means a general process where the County acquires Goods or Services by publicly advertising an invitation to potential Proponents to submit a Bid.

"Performance Evaluation" has the meaning assigned in Section 18.2 sub (a).

"Petty Cash" means an accessible store of money kept by the County for expenditure on Low Dollar Value items.

"Policy" means this Procurement Policy.

"Project Lead" means the person appointed by a Department Head (and which can be the Department Head) to oversee a procurement and/or

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disposal of surplus assets by the Department, and who shall carry out the duties enumerated in Section 3.8 of this Policy.

"Proponent" or **"Supplier"** means a person who submits a response to a County Tender Notice or Solicitation for Goods or Services.

"Purchase Order" or **"PO"** means a written offer to procure Goods and/or Services or a written acceptance of an offer.

"Purchasing Card" means a credit card provided by the County's Financial Services Department and its use is bound by the provisions of the Policy.

"Recurring Contracts" has the meaning assigned in Section 5.3.

"Request for Prequalification" or **"RFPQ"** means a Request for Information about Vendors to determine whether the Vendor has the capability to perform the contract requirements. The Request for Prequalification process is undertaken with a view to establishing a list of bidders eligible to Bid on future opportunities.

"Request for Proposals" or **"RFP"** means a request for Bids comprised of a technical and financial proposals that involves an evaluation of the elements in the technical proposal as well as prices.

"Request for Quotations" or **"RFQ"** means a request to a select class of Vendors for prices on specified Goods and/or Services and refers to an RFQ-I or RFQ-F as the context permits.

"Request for Standing Offers" or **"RFSO"** means a procurement document issued by the County requesting pricing and details to provide certain Goods or Services on an as-required basis, during a particular period of time, at a predetermined price or discount, generally within a predefined dollar limit. There is no obligation on the part of the County to access the Goods or Services.

"Request for Tenders" or **"RFT"** means a request for Bids comprised of proposed prices for Goods and/or Services from Vendors, where the Goods and/or Services are specified in detail in the RFT.

"RFx" means any process inviting potential Proponents to submit Bids or information to the County.

"Services" means all Services, including Construction Services, unless otherwise specified.

"Specifications" means the detailed description of, and written requirements and standards for, Goods and/or Services contained in a RFx to the extent known or available to the Department, and includes any drawings, designs and models.

"Standard County Templates" has the meaning assigned in Section 6.1.

"Standing Arrangement" or **"RFSA"** has the meaning assigned in Part 8.9 (Request for Standing Offer or Standing Arrangement).

"Surplus Assets" has the meaning assigned in Section 19.1.

"Tender Notice" or **"Solicitation"** means a document released inviting Bids, proposals, quotes, and/or tender submissions.

Schedule B – Exclusions from Procurement Policy Rules

Contracts for, or payment of, the expenses, Goods or Services, or the disposal of surplus assets listed below are not subject to the competitive procurement requirements in this Policy, save and except for Section 4.0 (Procurement Approval Authority) and Section 21.0 (Employee Conflicts of Interest).

Note: Best practice ensures Goods and Services are acquired through a compliant, open, fair, and transparent process. Despite the exclusions provided for below, the County continues to encourage all reasonable attempts be made to ensure value for money in procuring Goods and Services that are specifically excluded from this Policy.

1. General Exclusions. The following procurements are excluded from compliance with this Policy:
 - (a) Goods or Services financed primarily from donations that require the procurement to be conducted in a manner inconsistent with this Policy;
 - (b) Procurements by the County on behalf of an entity not covered by this Policy;
 - (c) Acquisition of Goods for the purpose of commercial sale or re-sale by the County; and/or
 - (d) Surplus Assets identified by the Procurement Office as requiring specialized training and/or licensing to operate, buy, or sell, may be offered for sale in a manner that does not comply with this Policy, should the Procurement Office deem it in the best interests of the County not to do so.
2. Excluded Professional Services. The following Services are excluded from compliance with this Policy.
 - (a) Health or social Services;
 - (b) Services that may, under applicable law, only be provided by licensed lawyers or notaries;
 - (c) Services of expert witnesses or factual witnesses used in court or legal proceedings; and/or

- (d) 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.
3. Non-Procurement Transactions. The following transactions are excluded from compliance with this Policy:
- (a) Insurance premiums, however, the purchase of insurance advisory Services is not excluded;
 - (b) Payments of debts;
 - (c) Procurement or acquisition of fiscal agency or depository Services (banking Services);
 - (d) Any form of financial assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives;
 - (e) Agreements with a governmental authority or agent of government;
 - (f) Acquisition or rental of land, real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like.
 - (g) Insurance claims, legal settlements and grievance settlements.
 - (h) Binding orders, judgments or decisions of an arbitrator, tribunal or court.
 - (i) Refundable travel expenses.
 - (j) Other County and employee related expenses, such as: memberships in professional organizations (professional dues), staff attendance at seminars, testing or examination fees, and registrations for workshops, courses, training, trade shows or conferences.