

# THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

## BY-LAW NO. 2008-011

### A By-Law To Establish Policies And Procedures For The Procurement Of Goods And Services By The Township Of Springwater

#### (Procurement Policies and Procedures Policy)

**WHEREAS** the Council of the Corporation of the Township of Springwater deems it desirable to enact a by-law to provide for fair, transparent and accountable purchasing and tendering procedures and thereby protect Council, vendors and staff involved in the process by providing clear direction and accountabilities;

**AND WHEREAS** this By-law establishes the authority and sets out the methods by which Goods and Services will be purchased and disposed of for the purposes of the Township of Springwater;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER ENACTS AS FOLLOWS:**

#### 1. **DEFINITIONS**

In this By-law,

- 1.1. **“Act”** means the Municipal Act, S.O. 2001 as amended;
- 1.2. **“acquisition”** means the process of obtaining goods and services;
- 1.3. **“agreement”** means a legal document that binds The Corporation of the Township of Springwater and all other parties, subject to the provisions of the contract;
- 1.4. **“approval”** means the authorization to proceed with the purchase or disposal of goods and/or services;
- 1.5. **“authority”** means the legal right to conduct the tasks outlined in this By-law as directed by Council and delegated through the Chief Administrative Officer to the Treasurer. Authorized purchases are those that have prior approval of Council either through Departmental budgets, including authorized revisions by resolution or where applicable, Council approved budgets of local boards to which this By-law applies;
- 1.6. **“bid”** means an offer or submission received in response to a Request for Quotation, Request for Tender or Request for Proposal which is subject to acceptance or rejection;
- 1.7. **“bid deposit”** means a financial guarantee to ensure the successful bidder will enter into an agreement;
- 1.8. **“bid request”** means a written request for bids or a solicitation, which may be in the form of a Request for Quotation, Request for Tender or Request for Proposal;
- 1.9. **“blanket purchase order (supply contract)”** means an agreement wherein a vendor will sell certain goods and services to the Township for an agreed period of time with established terms and conditions;
- 1.10. **“C.A.O.”** means the Chief Administrative Officer for The Corporation of the Township of Springwater or designate;
- 1.11. **“Clerk”** means the Clerk for The Corporation of the Township of Springwater or designate;
- 1.12. **“contract”** means a legally binding agreement between two or more parties. Such agreements will consist of:
  - Purchase order, or
  - Purchase order incorporating a formal agreement, or
  - Formal agreement between two or more parties that creates an obligation to provide defined goods and/or perform defined services;

- 1.13. **“corporate signing officer”** means the Mayor and Clerk or other individuals designated by Council or this By-law;
- 1.14. **“cost effective bid”** means a bid received in response to a request that offers the best value for the dollars expended taking into consideration a quantitative and qualitative selections procedure including availability of the goods or service;
- 1.15. **“Council”** means the Council of The Corporation of the Township of Springwater;
- 1.16. **“Department”** means any Department within the Corporation;
- 1.17. **“designate”** means a person authorized by the C.A.O. or Senior Management to act on his/her behalf for the purposes of this By-law;
- 1.18. **“disposal”** means the removal of materials owned by the Township and deemed surplus by sale, trade-in, auction, alternative use, gift or destruction;
- 1.19. **“emergency”** means a situation where the purchase of goods and services requires immediate action to prevent or correct dangerous or potentially dangerous safety conditions, to prevent further damage, to restore minimum service or ensure the safety of the public;
- 1.20. **“execute”** means to legally bind The Corporation of the Township of Springwater to the terms and conditions defined with the Purchase Requisition, Order and /or Agreement;
- 1.21. **“expression of interest”** means a situation where vendors are solicited by the Township to advise the Township of their ability or desire to undertake Township requirements;
- 1.22. **“formal bid”** means a sealed bid submission;
- 1.23. **“goods and/or services”** means supplies, equipment, property insurance, maintenance, professional and consulting services and service contracts not otherwise provided for;
- 1.24. **“list of bidders”** means a list maintained by Senior Management of those vendors who are interested in submitting bids;
- 1.25. **“lowest responsive bid”** means the lowest bid price submitted which meets the requirements and specifications as set out in the bid request, minor deviations excepted;
- 1.26. **“Material Safety Data Sheets (MSDS)”** means the information required to be submitted by the vendor for all hazardous materials, including an index of chemical compounds with details of properties, handling details, precautions and first-aid procedures;
- 1.27. **“negotiation”** means the action or process of conferring with one or more vendors leading to an agreement on the acquisition of the required goods and services under the conditions outlined in this policy;
- 1.28. **“open market procedure”** means obtaining price quotations from vendors verbally or in writing;
- 1.29. **“privilege clause”** means the standard clause used in bid documents and advertising that reads in part “the lowest or any tender not necessarily accepted” or in the case of disposal “the highest or any bid not necessarily accepted”;
- 1.30. **“procure/procurement/purchase”** means to acquire goods and/or services by purchase, rental or lease;
- 1.31. **“professional and consulting services”** includes architects, auditors, engineers, designers, planners, surveyors, management and financial consultants, brokers, legal services, and any other professional and consulting services rendered on behalf of the Township;
- 1.32. **“proposal/request for proposal/RFP”** means an offer to provide goods or services to the Township, where it is not practical to prepare precise specifications or where “alternatives” to detailed specifications will be considered, which may be subject to further negotiation. This process allows vendors to propose solutions to arrive at the end product, and allows for evaluation on criteria other than price;
- 1.33. **“Purchasing Coordinator”** means the person designated by the Treasurer to coordinate purchasing for the Township. Until such time as a corporate Purchasing Coordinator has been designated by the Treasurer, Senior Management shall be deemed to be the Purchasing Coordinator for their respective Departments;
- 1.34. **“purchase order”** means a written or electronically transmitted offer to purchase goods and services in an approved form, or a written or electronically transmitted acceptance of an offer where such offer has been made in an approved form;
- 1.35. **“quotation/request for quotation/RFQ”** means an offer to sell goods and services to the Township or an offer to purchase surplus goods from the Township;

- 1.36. **“responsive and responsible vendor”** means one who complies with the provisions of the bid solicitation, including specifications, contractual terms and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed contract based on reputation, or references, or performance on previous contracts, and adequate financial and other resources;
- 1.37. **“Senior Management”** means the person responsible for direction and operational control of a Department, or authorized designate;
- 1.38. **“surety”** means a specified dollar amount in the form of cash, certified cheque, bid bond, performance bond, labour and materials bond, letter of credit or any other form as deemed necessary and stated in any quotation, tender or proposal documents issued by the Township;
- 1.39. **“tender/request for Tender/RFT”** means an offer received from a supplier of goods and/or services in response to a public advertisement requesting tenders;
- 1.40. **“Township”** means The Corporation of the Township of Springwater;
- 1.41. **“Treasurer”** means the Treasurer for The Corporation of the Township of Springwater or designate;

## **2. PROCUREMENT PRINCIPLES AND GOALS:**

The purchasing principles of the Township are as follows:

- 2.1. to procure by purchase, rental or lease the required quality and quantity of goods and/or services, including professional and consulting services in an efficient, timely and cost effective manner;
- 2.2. to encourage open competitive bidding for the acquisition and disposal of goods and services where practical;
- 2.3. to consider all costs, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, disposal value and disposal costs, in evaluating bid submissions from qualified, responsive and responsible vendors;
- 2.4. to give full consideration to the annual aggregate value or to consider the total project cost of specific goods and services that will be required by each Department and by the Township as a whole prior to determining the appropriate acquisition method;
- 2.5. to operate a Centralized Purchasing Program through the Purchasing Coordinator reporting to the Treasurer;
- 2.6. to monitor and report on the economic climate and legislative changes which may have an impact on the Township of Springwater and to determine the appropriate actions to be taken through purchasing policies and procedures;
- 2.7. to encourage the procurement of goods and services with due regard to the preservation of the natural environment, vendors may be selected to supply goods made by methods resulting in the least damage to the environment and to supply goods incorporating recycled materials where practicable;
- 2.8. to encourage the procurement of goods and services with due regard to the product being accessible to people with disabilities or be capable of being made accessible through the use of technology;
- 2.9. to review this policy every five years or earlier if necessary, in order to value its effectiveness.

## **3. GENERAL CONDITIONS**

- 3.1. In the absence of the Purchasing Coordinator, the Treasurer shall act as the authorized designate.
- 3.2. Every purchase order shall be copied to the Purchasing Coordinator.
- 3.3. The Purchaser Coordinator shall notify the C.A.O. if any purchase order could result in a potential Conflict of Interest.
- 3.4. No expenditure or commitment shall be incurred or made and no account shall be paid by the Township for goods and services, except as approved by Council or as otherwise authorized in accordance with this By-law.

- 3.5. The Township may include a privilege clause in an RFP or Tender which reads in part that “the lowest or any bid may not necessarily be accepted” or in the case of advertisements for the disposal of surplus goods that “the highest or any bid may not be accepted”.
- 3.6. No requirements for goods and services may be divided into two or more parts to avoid provisions of this By-law.
- 3.7. No employee shall purchase or offer to purchase, on behalf of the Township, any goods and services, except in accordance with this By-law.
- 3.8. Any employee who intentionally and knowingly acquires or disposes of any goods and services for the Township in contravention of any provision of this By-law, as amended from time to time, shall be subject to disciplinary actions in accordance with Township Policy.
- 3.9. Elected Officials shall not approve nor acquire any goods and services, including the negotiation of contracts for goods and services. Council approval of any purchase or offer to purchase under this By-law is subject to the provisions of the Municipal Conflict of Interest Act.
- 3.10. Where it is recommended that a contract other than a purchase order be executed, it will be authorized:
  - i. For Contracts under \$15,000, no report to Council is required, however the awarding of the contract shall be communicated to Council by e-mail. The requisitioning Senior Management or corporate signing officers upon request must execute a contract.
  - ii. For contracts \$15,000 to \$59,999, an information Report to Council is required from Senior Management provided that the project is within budget. The requisitioning Senior Management or corporate signing officers upon request must execute a contract.
  - iii. For contracts over \$60,000, a report to Council is required from Senior Management for Council approval. Upon Council’s approval, a contract must be executed by the corporate signing officer.
- 3.11. Senior Management may remove a vendor’s name from the list of bidders for a period of up to two years on the basis of documented poor performance, non performance, or conflict of interest. A written notice of the decision will be provided to the vendor and reported to Council in Closed Session.
- 3.12. Material Safety Data Sheets must be maintained by the user Department for all relevant products whether acquired through tendering, quoting or the proposal process.
- 3.13. The Township of Springwater will endeavor to achieve best value in its commercial transactions. As a consequence, the Township will not practice local preference in awarding purchases in accordance with the Discriminatory Business Practices Act, R.S.O. 1990, Chapter D12.

#### **4 SCHEDULES**

- 4.1 The following Schedules are attached hereto and form part of this By-law:

Schedule “A”	Exemptions
Schedule “B”	Standardization
Schedule “C”	Budgetary Approval
Schedule “D”	Responsibilities of C.A.O. & Senior Management
Schedule “E”	Methods of Procurement
Schedule “F”	Specifications
Schedule “G”	Request for Proposal Process
Schedule “H”	Tender Process
Schedule “I”	Bid Review
Schedule “J”	Reporting Requirements
Schedule “K”	Disposal Policy

#### **5 CONFLICT OF INTEREST**

- 5.1 Members of Council and Local Board members are subject to the Municipal Conflict of Interest Act or any successor or other legislation.

- 5.2 A Conflict of Interest under this By-law:
- 5.2.1 means a situation where private interests or personal considerations may affect an employee's judgment in acting in the best interest of the Township of Springwater, and/or
  - 5.2.2 includes using an employee's position, confidential information or corporate time, material or facilities for private gain or advancement or the expectation of private gain or advancement, and/or
  - 5.2.3 occurs when the procurement of goods or services benefits the employee or any member of an employee's family, friends or business associates.
- 5.3 Any potential Conflicts of Interest shall be disclosed by an employee to the Township prior to bidding on, or awarding of, a contract. Any potential Conflict of Interest shall be referred to the C.A.O. for review. If the C.A.O. determines that a Conflict of Interest does exist, the C.A.O. may award the contract with conditions, disqualify the employee as a qualified vendor or may withhold the assignment from the vendor associated with the Conflict of Interest.
- 5.4 If prior to or during the conduct of a Township assignment, the Senior Management overseeing a contract has a potential Conflict of Interest, a report shall be made to the C.A.O. and the C.A.O. shall determine whether a Conflict of Interest exists and if so, the Senior Management shall be removed from the project.
- 5.5 A Conflict of Interest under this By-law shall also include a situation where the private interests of a consultant may affect the consultant's judgment in acting in the best interest of the Township.
- 5.6 All consultants retained by the Township of Springwater shall disclose to the Township prior to accepting a contract any potential Conflict of Interest. Any potential Conflict of Interest shall be referred to the C.A.O. for review prior to the awarding of a contract. If the C.A.O. determines that a Conflict of Interest does exist, the C.A.O. may award the contract with conditions, disqualify the consultant as a vendor or may withhold the assignment from the consultant.
- 5.7 If during the conduct of a Township contract, a consultant is retained by another client giving rise to a potential Conflict of Interest, or becomes aware of a potential Conflict of Interest which did not exist prior to accepting the contract, then the consultant shall so inform the Township. The C.A.O. shall determine whether a Conflict of Interest exists and may remove the consultant from the assignment.

## **6 FIVE YEAR REVIEW & EXPIRY DATE**

- 6.1 This By-law expires five years after the date on which it comes into force.

## **7 MISCELLANEOUS**

- 7.1 The headings in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.
- 7.2 If, for any reason, any provision, section, subsection or paragraph of this By-law is held invalid, it is hereby declared to be the intention of Council that all the remainder of this By-law shall continue in full force and effect until repealed, re-enacted or amended, in whole or in part or dealt with in any other way.

## **8 RESCIND**

- 8.1 THAT this By-law rescinds the Township of Springwater Quotations and Tendering Policy and any other purchasing policy previously established by the Township of Springwater subject to the exemptions under this By-law.

## **9 FORCE AND EFFECT**

- 9.1 THAT this By-law shall take force and effect retroactive to the 1st day of January, 2008.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 21<sup>st</sup>  
DAY OF JANUARY, 2008**

**THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER**

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**Mayor Tony Guergis**

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**Deputy Clerk Winanne Grant**

## SCHEDULE "A" to By-law 2008-011

### EXEMPTIONS

Notwithstanding any other provisions of this Policy, the acquisition of the items listed in this Schedule do not fall under the guidelines of the Procurement Policy and shall be subject to applicable Policies and Procedures as may be established from time to time.

The following Goods and Services are hereby declared to be "Exempt" from this policy:

- 1 Petty Cash Items
- 2 Training and Education
  - A. Conferences
  - B. Courses
  - C. Conventions
  - D. Memberships
  - E. Seminars
  - F. Periodicals
  - G. Staff and Council Training
  - H. Staff and Council Development
  - I. Staff and Council Workshops
- 3 Employee Expenses
  - A. Meal Allowances
  - B. Travel and Hotel Accommodations
  - C. Miscellaneous Non-travel
- 4 Employer's General Expenses
  - A. Payroll Deduction Remittances
  - B. Licenses (vehicles, elevators, radios, etc)
  - C. Debenture Payments
  - D. Grants to Agencies
  - E. Payments of Damages
  - F. Tax Remittances
  - G. Charges to/from other Government or Crown Corporations
  - H. Employee Income
  - I. Lease Payments
- 5 Professional and Special Services
  - A. Remuneration for Council, Committees, Appointees and Volunteer Firefighters
  - B. Witness fees
  - C. Arbitrators
  - D. Legal Settlements
  - E. Insurance Claims
  - F. Banking Services
  - G. Real Estate Appraisals
- 6 Utilities
  - A. Postage
  - B. Water and Sewer Charges
  - C. Hydro
  - D. Telecommunications

**SCHEDULE "B" to By-law 2008-011**

**STANDARDIZATION**

The Township of Springwater wishes to wherever possible standardize the procurement of goods and services to allow for:

1. Reduced number of goods and services required
2. Increased volume on common items or services
3. Maximizing volume buying opportunities
4. Providing economies of scale
5. Reducing handling, training and storage costs
6. Minimizing maintenance costs
7. Co-operative purchasing activities
8. Competitive bid results
9. Reduced overall cost

**SCHEDULE "C" to By-law 2008-011**

**BUDGETARY APPROVAL**

1. Net Departmental expenditures are authorized by Council each year as part of either the Operating or Capital Budget process.
2. The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Council approved operating budget.
3. Pending Council's approval of proposed budgetary estimates, Senior Management is authorized to spend up to 50% of the previous year's Operating Budget.
4. Senior Management is not authorized to overrun net Departmental operating budgets, except in accordance with this By-law.
5. Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:
  - The identification and availability of sufficient funds in appropriate accounts of the current year within Council approved estimates, and
  - The requirement for the goods and services will continue to exist in subsequent years and, in the opinion of the Treasurer, the required funding can reasonable be expected to be made available.
6. The Treasurer may reject all purchase requests for which sufficient funds are not available and identified in the Council Approved Operating Budget. If Senior Management advises the Treasurer that the deficiency is minimal and alternative funding has been identified, the purchase request may proceed provided appropriate authorizations are met in accordance with this By-law and any public notice requirements.
7. Senior Management is not authorized to cancel a contract for services where such cancellation would result in services being provided by Township staff, or enter into a new contract for services where such services were previously provided by Township staff, without the prior approval of Council.

**SCHEDULE "D" to By-law 2008-011**

**RESPONSIBILITIES OF THE C.A.O. AND SENIOR MANAGEMENT**

1. The C.A.O. is responsible for:
  - providing procurement advice and services to Senior Management and,
  - monitoring compliance with this policy.
2. The C.A.O. has the authority to instruct Senior Management not to award a contract and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interest of the Township.
3. Senior Management is responsible for procurement activities within their Department and is accountable for determining and achieving the goals of this By-law.
4. Senior Management has the authority to award contracts in the circumstances specified in this By-law provided that the delegated power is exercised within the limits prescribed in this By-law, and the requirements of this By-law are met.
5. Where this By-law prescribed financial limits on contracts that may be awarded under the authority of Senior Management, or provides financial limits on contracts required to be reported to Council, for the purpose of determining whether a contract falls within these prescribed limits, the contract amount shall be the sum of all costs paid to the supplier under the contract, excluding all taxes less any rebates.
6. Senior Management, in consultation with the C.A.O. shall inform Council when non-compliance with this By-law has occurred.
7. Senior Management is required to forward to the Treasurer, a copy of all legally executed contracts relating to the procurement of goods and services.

**SCHEDULE "E" to By-law 2008-011**

**METHODS OF PROCUREMENT**

**1 PROCUREMENT OF GOODS AND/OR SERVICES**

Where the required product or service can be specified, (and such goods and services are not normally stocked by the Township or covered by a Blanket Purchase Order), it shall be acquired by Purchase Order.

Where it is estimated that the value of the goods and services, inclusive of all delivery charges will cost:

- A. Under \$5000  
Direct acquisition is acceptable  
No purchase order is required but may be issued at Senior Management discretion for accounting purposes.
- B. \$5,000 to \$14,999  
The requisitioning Department in consultation with the Treasurer shall obtain three (3) written quotations, where possible and practicable.  
No report to Council is necessary however the acquisition of a new or replacement capital asset shall be communicated to Council by e-mail.

A purchase order or formal agreement is required.

C. \$15,000 - \$59,999

Senior Management shall issue a Request for Quotation, Request for Proposal or Tender. Requests for Proposals must comply with the provisions in Schedule "G" of this By-law and Tenders must comply with the provisions in Schedule "H" of this By-law.

A minimum of three quotations, bids or tenders are to be received where possible and practicable before the Township awards a contract.

Quotations are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission.

An Information Report to Council is necessary. If only one quotation is received, the Township may exercise its right to cancel the call for quotations or waive the requirement for three quotations.

A purchase order or formal agreement is required.

D. \$60,000 and over

Senior Management shall issue a Tender for all approved projects that are based on defined requirements (specifications are available to readily compare products). Tenders must comply with the provisions in Schedule "H" of this By-law. Senior Management shall issue a Request for Proposal for projects that meet the provisions set out in SCHEDULE "E" Section 2 of this By-law. Request for Proposals must comply with the provisions in SCHEDULE "G" of this By-law.

A minimum of three tenders are to be received where possible and practicable before the Township awards a contract.

If only one tender is received, the Township has the option of not opening the bid and closing the call for tender or waiving the requirement for three tenders.

A report by the requisitioning Senior Management and reviewed by the C.A.O. shall be prepared for Council approval.

Upon Council approval, Senior Management shall ensure that a formal agreement, or contract signed by the corporate signing officers, is executed.

Senior Management is responsible for maintaining current insurance certificates and WSIB certificates, as called for in the bid documents.

**2 REQUESTS FOR PROPOSAL (INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES)**

This method of acquisition can be used for any dollar value and involves the solicitation of proposals when:

- the requirements for goods and/or services cannot be definitely specified and/or,
- the requirements of the Township are best described in a general performance specification and/or,
- innovative solutions are sought.

Depending on its terms, the process may involve negotiations subsequent to the submission of proposals on any or all of the specifications, contract terms, and prices.

Requests for Proposals are not formally opened in public nor is it necessary to disclose prices or terms at the time of submission. If only one proposal is received, the requisitioning Senior Management, in consultation with the C.A.O. has the option of not opening the bid and closing the call for proposal or waiving the requirement for three bids.

Where the required good or service cannot be specified and it is estimated that the value of the goods and services (excluding taxes) cost:

- A. \$5,000 to \$14,999  
No report to Council is required however the awarding of the contract shall be communicated to Council by e-mail.  
The requisitioning Senior Management or corporate signing officers upon request must execute a contract.
- B. \$15,000 - \$59,999  
An Information Report to Council is required from Senior Management provided that the purchase is within budget.  
The requisitioning Senior Management or corporate signing officers upon request must execute a contract.
- C. \$60,000 and over  
A Report to Council is required from Senior Management for Council approval.  
Upon Council's approval, a contract must be executed by the corporate signing officers.

In the event the tender amount exceeds the anticipated budget of the proposed project, upon approval of the requisitioning Senior Management, in consultation with the C.A.O., post-tender addendums may be distributed to the responding contractors in an effort to negotiate the tender cost.

### **3 EXPRESSION OF INTEREST and/or REQUEST FOR PRE-QUALIFICATION**

This method may be used where bidders offer their interest in submitting a bid on a product or service. An Expression of Interest and/or Request for Pre-Qualification must be advertised publicly on the Township website or in a local, regional or trade paper at the discretion of Senior Management. Information is requested to determine reference checks, past performance and financial liability and in the case of an Expression of Interest for occasional services to be provided to the Township, bid prices during the stated term.

A reply to the Request for Expression of Interest and/or Pre-Qualification is required by a designated date and time to the requisitioning Senior Management and must be signed by an Officer authorized to legally bind the Corporation.

Where the Expression of Interest is for occasional services to be provided to the Township, the list of Pre-Qualified vendors and bid prices where applicable shall be provided to the Treasury Department and may be used by Senior Management to acquire services during the term set out in the Expression of Interest.

Where the Expression of Interest is for a one-time procurement of goods and/or services, the submissions are reviewed and the subsequent Request for Proposal, Quotation or Tender shall be sent to the short list of pre-qualified bidders.

### **4 VENDOR OF RECORD**

This method may be used where purchasing all or a large volume of required goods and/or services for specific operational needs from a designated vendor of record for the duration of a contract period. This method may be used only when purchasing from a vendor of record is beneficial and cost effective for the Township, and/or where consistent use of a single vendor is needed for compatibility with existing products, facilities, services or systems.

Vendors of record will be selected through one of two methods

- a. through an Expression of Interest for occasional services, or

- b. as a result of being awarded one particular contract via a competitive process, and performing successfully, whereupon the approved vendor may be approached to enter into a Vendor of Record Agreement as approved by Senior Management of the purchasing Department and the C.A.O.

The requisitioning Senior Management or corporate signing authority must execute a Vendor of Record Agreement with the approved vendor.

A new vendor of record selection process must take place a minimum of once every three years.

## METHODS OF PROCUREMENT – SUMMARY TEMPLATE

The following are authorized procedures for the procurement of goods and services.

Method of Procurement	Type of Quotation	Source of Bids	Type of Contract	Reporting Status
<b>Under \$5000</b>	Not required	Purchases made from the competitive marketplace where possible and practicable	Direct acquisition  Purchase order at the discretion of Senior Management.	No report to Council required
<b>\$5000 to \$14,999</b>	Written quotation required	3 written quotes to be obtained where possible and practicable.	Purchase order required	No report to Council required.  Council notified via e-mail of acquisition of a new or replacement capital asset.
<b>\$15,000 to \$59,999</b>	Written quotation acquired by Request for Quotation (RFQ), Request for Proposal (RFP) or Tender	Advertised on website or advertised in local, regional and/or trade paper  RFPs and Tenders may be advertised as above or called by invitational bid.	Purchase order, formal agreement or contract	Information Report to Council required.
<b>\$60,000 and over</b>	Written quotation acquired by Request for Tender  Written quotation may be acquired by Request for Proposal when projects meet the provisions set out in Schedule "E" Section 2 of this By-law	Advertised on website or advertised in local, regional and/or trade paper  RFPs and Tenders may be advertised as above or called by invitational bid.	Formal agreement or contract	Report required for Council approval
<b>Expression of Interest and/or Request for Pre-Qualification</b>	Request for information only, followed by Invitation to bid or Pre-qualified Tender or Vendors List		No contract  Followed by further request	No report to Council required
<b>Vendor of Record</b>	Expression of Interest for Occasional Services, OR Invitation to enter Vendor of Record Agreement based on successful performance in a particular Township contract (contract selection must have been based on a competitive process)	Advertised on website, may advertise in local, regional and/or trade paper  No advertisement required where Vendor is invited to enter agreement based on successful past performance on a Township contract that was awarded as a result of a competitive process.	Vendor of Record Agreement Required	\$15,000 to \$59,999 requires Information report to Council for goods and/or services  \$60,000 and over Report required for Council approval.

## 5 EXCEPTIONS TO METHODS OF ACQUISITION

### A. Volatile Market Conditions

Notwithstanding the provisions of this By-law, where market conditions are such that long term price protection cannot be obtained for goods and services, Senior Management will obtain competitive prices for short term commitments until such time a reasonable price protection and firm market pricing is restored.

### B. Sole Source Procurement

Purchase by negotiation may be adopted, if in the judgement of Senior Management any of the following conditions apply:

- i. goods and services are in short supply due to market conditions
- ii. the sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitutes is precluded due to any of the following:
  - components or replacement parts for which there is no substitute
  - compatibility with an existing product, facility or service is required
  - specific standards are adopted by the Township
- iii. there is documented evidence that the extension or reinstatement of an existing contract would prove most cost effective or beneficial (to a maximum of 10% of the original contract without Council approval)
- iv. The Township requires goods or services for which another party has secured a contractor through a tender process with established unit prices within the past eighteen (18) months, and it is considered to be beneficial and cost effective to extend unit prices for the goods and/or services to the Township
- v. after the RFP process has closed, it may be necessary for discussion to clarify and/or make significant revision(s) to the initially defined requirements of the call for quotations/proposals
- vi. when less than three bids are received through the procurement process and it is impractical to recall the requirements of the call for quotations/proposals

### C. Emergency Procurement

Notwithstanding the provisions of this By-law, the following shall only apply in case of an emergency, when an event occurs that is determined by Senior Management or the C.A.O. to be:

- a threat to public health,
- the maintenance of essential Township services,
- the welfare of persons or of public property,
- the security of the Township's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids, or,
- the purchase/contract is part of a legislative requirement which require immediate delivery of good or services and time does not permit for competitive bids.

The above criteria are to be applied on the basis of:

#### i. Procurement under \$15,000:

Wherever feasible, the Purchasing Co-coordinator, upon the recommendation of Senior Management, shall secure by the most open market procedures at the lowest obtainable or cost-effective price, any goods and services required.

A purchase order shall be issued.

#### ii. Procurement over \$15,000:

Senior Management shall obtain the prior approval of the C.A.O.

An information report shall be submitted to Council explaining the actions taken and the reason(s) therefore.

A purchase order shall be issued.

**D. Co-operative or Joint Ventures**

The Township may participate with other Government agencies or public authorities in co-operative procurement/acquisition ventures or utilize a “piggy back clause” within public sector contracts, whenever it is determined to be in the best interest of the Township to do so.

**E. Unsolicited Proposals**

Unsolicited proposals received by the Township shall be reviewed by Senior Management and Purchasing Coordinator. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with the provisions of this By-law. A contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis only when the procurement requirements comply with the non-competitive procurement policies and procedures.

**SCHEDULE “F” to By-law 2008-011**

**SPECIFICATIONS**

- 1 The Department whose budget provides for the procurement of goods and services shall be responsible, in consultation with the Treasurer and any other Department, for the preparation and approval of all specifications and/or Terms of Reference (Scope of Work) to be used for the procurement of such goods and services.
- 2 Where more than one Department will be sharing the goods and/or services, the requisitioning Department Senior Management must consult all affected Departments regarding specifications.
- 3 Where practical, specifications or Terms of Reference should be considered that are detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven method is available.
- 4 Vendors or potential vendors should not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from vendors.
- 5 If and when a vendor is asked to provide the services under Section 3 above:
  - the Treasurer shall be advised,
  - the contracted vendor will be considered as a consultant and a fee shall be paid, and,
  - the detailed specifications shall become the property of the Township of Springwater for use in obtaining competitive bids which may include a bid from the vendor.

**SCHEDULE “G” to By-law 2008-011**

**REQUEST FOR PROPOSAL PROCESS**

The requisitioning Department will initiate the RFP process by preparing documents with input and assistance from the Purchasing Coordinator to ensure that all provisions have been included in the proper format.

All RFP's must be advertised in one of two methods:

- a. advertised on the Township website and/or in a local, regional and/or trade paper, or
- b. called by invitational bid.

RFP's with an estimated value of \$15,000 or more shall be reviewed by the C.A.O. prior to advertisement. RFP packages or advertisements must include the following information (as applicable):

- site meeting time/date/location
- contact information for inquiries
- document fee
- when and where bid documents will be available for pick-up
- instructions for delivery of bid documents including location, sealing and contract identifier
- closing date not less than 15 calendar days after the first date of advertising
- closing deadline of 12:00 noon
- date, time and location of bid opening
- privilege clause

If approved by the C.A.O., an RFP may close in a shorter period of time depending on the urgency or complexity of the item(s).

The Township of Springwater will refuse to accept any submissions that are:

- Not sealed
- Received after the closing deadline
- Submitted after an RFP has been cancelled

Requests for withdrawal of an RFP shall be allowed if the request is made before the closing time for the contract to which it applies. Requests must be directed to the C.A.O. by letter, or in person by Senior Management of the requisitioning Department with a signed withdrawal confirming details. The withdrawal of an RFP does not disqualify a bidder from submitting another RFP on the same contract.

Proposals received shall be evaluated on the basis of quantitative and qualitative criteria by an Evaluation Committee, subject to the Bid Review provisions under this By-law. The Evaluation Committee shall be comprised of the Senior Management of the requisitioning Department and such other persons as deemed appropriate by the C.A.O.

Senior Management may award an RFP with a value of less than \$15,000 to a responsive and responsible vendor based on the most cost-effective bid or lowest responsive bid upon the approval of the C.A.O. and subject to budgetary approval. RFPs with a value of \$15,000 to \$59,999 require an Information Report to Council. RFPs with a value of over \$60,000 require a report from Senior Management to Council for approval prior to the awarding of the contract.

Once an award is made, any written report recommending an award shall be a matter of public record.

Senior Management shall either requisition a purchase order or ensure a contract which legally binds the Township is executed by the corporate signing officer. RFP results will be made public upon request by the Purchasing Coordinator or Senior Management of the requisitioning Department subject to the Municipal Freedom of Information and Protection of Privacy Act.

Where exact project costs cannot be projected due to the nature of the work (for example large construction projects) a contingency amount of not greater than 10% of the estimated project cost can be written into the purchase contract without requiring additional approval, however the full potential value of the project including the contingency amount must be used for the purpose of determining the appropriate approval and procurement method.

## SCHEDULE "H" to By-law 2008-011

### TENDER PROCESS

All Tenders must be advertised in one of two methods:

- a. by way of public advertising, or
- b. invitational bid for all work, equipment, and materials with a value exceeding \$60,000, as outlined in this By-law.

Senior Management will send a draft advertisement and tender documents to the C.A.O. and Purchasing Coordinator for review, providing the following information:

- Estimated dollar value
- Budget approval value
- Description of work
- Specifications (if applicable)
- Proposed closing date and time
- Proposed method of invitation/advertising

Tender packages and/or advertisements must include the following information (as applicable):

- Site meeting time/date/location
- Contact information for inquiries
- Tender fee
- When and where bid documents will be available for pick-up
- Instructions for delivery of bid documents including location, sealing and contract identifier
- Closing date not less than 15 calendar days after the first date of advertising and closing deadline of 12:00 noon
- Date, time and location of bid opening
- Privilege clause

If approved by the C.A.O., an RFP may close in a shorter period of time depending on the urgency or complexity of the item(s).

The tender fee (if applicable) is paid to the Township of Springwater and bidder information is to be recorded as documents are picked up. A copy of the tender documents is to be made available for viewing prior to purchase upon request.

The Township of Springwater will refuse to accept any submissions that are:

- Not sealed
- Received after the closing deadline
- Submitted after a Tender has been cancelled

Requests for withdrawal of a tender shall be allowed if the request is made before the closing time for the contract to which it applies. Requests must be directed to the C.A.O. by letter or in person by Senior Management of the requisitioning Department with a signed withdrawal confirming details. The withdrawal of an tender does not disqualify a bidder from submitting another tender on the same contract.

Proposals received shall be evaluated on the basis of quantitative and qualitative criteria by an Evaluation Committee, subject to the Bid Review provisions under this By-law. The Evaluation Committee shall be comprised of the Senior Management of the requisitioning Department and such other persons as deemed appropriate by the C.A.O.

Senior Management may award a tender with a value of less than \$15,000 to a responsive and responsible vendor based on the most cost-effective bid or lowest responsive bid upon the approval of

the C.A.O. and subject to budgetary approval. Tenders with a value of \$15,000 to \$59,999 require an Information Report to Council. Tenders with a value of over \$60,000 require a report from Senior Management to Council for approval prior to the awarding of the contract.

Once an award is made, any written report recommending an award shall be a matter of public record.

Senior Management shall either requisition a purchase order or ensure a contract which legally binds the Township is executed by the corporate signing officer. Tender results will be made public upon request by the Purchasing Coordinator or Senior Management of the requisitioning Department subject to the Municipal Freedom of Information and Protection of Privacy Act.

Where exact project costs cannot be projected due to the nature of the work (for example large construction projects) a contingency amount of not greater than 10% of the estimated project cost can be written into the purchase contract without requiring additional approval, however the full potential value of the project including the contingency amount must be used for the purpose of determining the appropriate approval and procurement method.

### **SCHEDULE "I" to By-law 2008-011**

#### **BID REVIEW**

##### **BID ANALYSIS**

Analyzing of bid responses shall be as follows:

1. RFPs or Tenders shall be tabulated and analyzed by the requisitioning Senior Management, in consultation with any consultant, to determine bid irregularities including mathematical errors in the bid calculation and/or taxes.
2. After the bid analysis, the requisitioning Senior Management and/or consultant shall prepare a recommendation for the C.A.O.'s review.
3. A report recommending the awarding of the RFP or tender shall be prepared for approval of Council where required under this By-law.

##### **BID IRREGULARITY**

The requisitioning Senior Management and Purchasing Coordinator, will be responsible for any action taken in dealing with bid irregularities, and will act in accordance with the nature of the irregularity as set out below.

A bid irregularity is a deviation between the requirements (terms, conditions specifications and special instructions) of a bid request and the information provided in the bid response.

For the purposes of this By-law, bid irregularities are further classified as "major irregularities" or "minor irregularities."

A "major irregularity" is a deviation from the bid request that affects the price, quality, quantity or delivery and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Purchasing Coordinator or requisitioning Senior Management must reject any bid which contains a major irregularity.

In the event that the vendor withdraws his bid due to the identification of a major irregularity, the Township may disqualify such vendor from participating in Township quotations/tenders/requests for a period of up to two years.

A “minor irregularity” is a deviation from the bid request, which affects form, rather than substance. The effect on price, quality, quantity, delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Purchasing Coordinator or requisitioning Senior Management may permit the bidder to correct a minor irregularity.

#### BID IRREGULARITIES - SUMMARY

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	Late bids (by any amount of time)	X		Automatic rejection
2.	Bids completed in pencil	X		Automatic rejection
3.	Bid surety not submitted with the bid when the bid request (or any addenda) indicated that such surety is required	X		Automatic rejection
4.	<b>Execution of Agreement to Bond:</b> a. Bond company corporate seal or equivalent proof of authority to bind company or signature missing b. Surety company not licensed to do business in Ontario	X		Automatic rejection
5.	<b>Execution of Bid Bonds:</b> a. Corporate seal or equivalent proof of authority to bind company or signature of BIDDER or both missing b. Corporate seal or equivalent proof of authority to bind company or signature of Bonding Company missing	X		Automatic rejection
6.	<b>Other Bid Security:</b> Cheque which has not been certified	X		Automatic rejection
7.	Bidders not attending mandatory site meeting	X		Automatic rejection
8.	Unsealed tender envelopes	X		Automatic rejection
9.	Proper response envelope or label not used		X	Acceptable if officially received on time
10.	Pricing or signature pages missing	X		Automatic rejection
11.	Insufficient financial security (i.e.: no deposit or bid bond or insufficient deposit)	X or	X	Where security is required & amount is not specified in request, automatic rejection unless insufficiency is de minimus (trivial or insignificant) Where security is required and amount of security is specified in request - automatic rejection
12.	Bid received on documents other than those provided in request	X		Not acceptable unless specified otherwise in the request
13.	<b>Execution of Bid Document:</b> Proof of authority to bind is missing	X		Automatic rejection

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
14.	Part bids (all items not bid)	X or	X	Acceptable unless complete bid has been specified in the request – automatic rejection
15.	Bids containing minor clerical errors		X	2 working days to correct initial errors. Township reserves right to waive initialing and accept bid
16.	Uninitiated changes to the request documents which are minor (i.e.: the bidder's address is amended by overwriting but not initialed)		X	2 working days to correct initial errors. Township reserves right to waive initialing and accept bid
17.	Alternate items bid in whole or in part		X	Available for further consideration unless specified otherwise in request
18.	Unit prices in the schedule of prices have been changed but not initialed		X	2 working days to correct initial errors. Township reserves the right to waive initialing and accept bid
19.	Other mathematical errors which are not consistent with the unit prices		X	2 working days to initial corrections. Unit prices will govern
20.	Pages requiring completion of information by vendor are missing	X		Automatic rejection
21.	Bid documents which suggest that the bidder has made a major mistake in calculations or bid	X		Consultation with a Solicitor on a case-by-case basis and referenced within the staff report if applicable

NOTE: The above list of irregularities should not be considered all-inclusive. The Purchasing Coordinator, in consultation with the requisitioning Department will review minor irregularities not listed. The Purchasing Coordinator may then accept the bid, or request that the bidder rectify the deviation.

### **SCHEDULE "J" to By-law 2008-011**

#### **REPORTING REQUIREMENTS**

1. Where the:
  - value of the goods and services is less than \$15,000,
  - procedures defined by this policy has been followed,
  - acquisition is within the approved Departmental budget, and,
  - the most cost effective bid and/or lowest responsive bid has been recommended,

the Purchasing Coordinator or Senior Management of the requisitioning Department may issue a purchase order and/or arrange for a contract to be executed by the corporate signing officers

2. Where the:
  - value of the goods and services is between \$15,000 and \$59,999,

the Purchasing Coordinator or Senior Management of the requisitioning Department must send an Information Report to Council before a Purchase Order may be issued and/or contract may be executed by the corporate signing officers.

3. Where the:
- purchase is for the acquisition of a new or replacement capital asset,

the Purchasing Coordinator or Senior Management of the requisitioning Department must send an e-mail to Council notifying them of the acquisition; and a Purchase Order may be issued and/or contract may be executed by the corporate signing officers.

4. Where the:
- value of the goods and services is over \$60,000, or
  - Procurement procedures are being waived for purchases other than those identified as exempt under Schedule "A" of this By-law, or
  - there was no provision in the budget for the item, or
  - the value of the bid exceeds the approved budget, or
  - most cost effective bid or lowest responsive bid is not being recommended, or
  - the C.A.O. requests that a report be presented for Council approval

In accordance with the Methods of Procurement set out in Schedule "E" of this By-law, a report requesting Council's approval is required before a Purchase Order may be issued and/or contract may be executed by the corporate signing officers .

### **SCHEDULE "K" to By-law 2008-011**

#### **DISPOSAL POLICY**

It shall be a policy of the Township of Springwater that the Surplus Vehicle & Equipment Policy procedure to be followed with regard to the disposal of surplus item(s) shall be:

- 1) When a member of Senior Management has determined that an item is in disrepair and no longer meets the Health & Safety or other requirements of the Township, it shall be disposed of in a proper manner.
- 2) When a member of Senior Management has determined that an item owned by the Township is surplus to the needs of their department and may be of value to another Township department or facility, an email shall be sent to the other Senior Management.
- 3) In the event that an item is no longer required for Township purposes and the cost to prepare the item for sale exceeds the estimated value, Senior Management, with the approval of the C.A.O., may dispose of the item in the following manner:
  - a) donate this item to any interested local non-profit organization for charitable purposes. (i.e. school, church, day care, seniors centre), or
  - b) dispose of item at an approved landfill site or recycling centre.
- 4) In the event that an item is no longer required for Township purposes and it is anticipated that the estimated value exceeds any costs associated with disposal, Senior Management shall recommend to the C.A.O. that the item be advertised for sale in at least one of the following manners:
  - a) internal notice for Township staff
  - b) public notice at Township facilities
  - c) public notice on Township Website
  - d) public notice in Springwater Source

- e) advertising in a local publication
- f) sale at auction

All notices or advertisements shall be pre-approved by the C.A.O.

- 5) A notice as determined above shall include the date and time for closing of offers and the person and location to which offers, in sealed envelopes, suitably marked, are to be delivered. All notices or advertisements shall include the provision that neither the highest nor any offer shall necessarily be accepted.
- 6) Township Council and/or staff may submit an offer provided that any such Council or staff member is not directly involved in the review and recommendation of such offers.
- 7) All offers will be opened in the presence of the C.A.O. and one other member of Senior Management. In the event that the anticipated value of the surplus item and/or any bid exceeds \$10,000, a report summarizing the offers received shall be submitted to the next meeting of Council or a Committee of Council together with a staff recommendation on whether and what bid to accept. Senior Management, with the approval of the C.A.O., may accept any bid less than \$10,000 where the anticipated value was below that amount.