

The Corporation of the Township of Springwater

By-law 2021-098

A By-law To Establish Policies and Procedures For the Procurement Of Goods and Services By The Township of Springwater and to Repeal By-law 2011-069

(Procurement Policies and Procedures Policy)

Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Section 11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides municipalities with the authority to provide for any service of thing that the municipality considers necessary or desirable for the public; and

Whereas Section 271 (1) of the Municipal Act, 2001, S.O. 2001, C. 25, as amended provides that a municipality shall adopt and maintain policies with respect to its procurement of goods and services; and

Whereas the Council 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;

Now Therefore the Council of the Corporation of the Township of Springwater enacts as follows:

1. That Schedule "A" – Procurement By-law attached hereto, forms part of this by-law.
2. That By-law 2011-069 be hereby repealed.
3. That this by-law shall take force and effect upon the passage hereof.

Read a First, Second and Third Time and Finally Passed this 20th day of October, 2021.

Don Allen, Mayor

Jennifer Marshall, Deputy Clerk

Corporation of the Township of Springwater

Procurement By-law

By-law 2021-098



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1. Purpose, Goals and Objectives

- 1.1. The purpose of this By-law is to delegate authorities to employees for the Township's procurement operations and establish regulations surrounding the Township's acquisition of goods and services, including tangible capital assets and equipment, and the disposal of all surplus assets. This By-law meets the requirements of Section 270. (1)(3) of the Municipal Act 2001.
- 1.2. The goals and objectives of this By-law are to:
 - a) ensure openness, accountability and transparency while protecting the financial best interest of the Township;
 - b) clearly define the roles and responsibilities of those involved in the procurement process and to assist and provide direction to staff, suppliers and Council relating to the procurement process;
 - c) procure the required quality and quantity of goods and/or services in an efficient, timely and cost-effective manner;
 - d) encourage competition in bidding;
 - e) ensure compliance with relevant legislation and align practices with applicable international and interprovincial trade agreements;
 - f) promote and incorporate wherever possible the requirements of the Accessibility for Ontarians with Disabilities Act, 2005 in procurement activities of the Township;
 - g) encourage environmentally responsible and sustainable procurement while maintaining fiscal prudence; and
 - h) strive to ensure ethical purchasing practices are used by all staff.

2. Application

- 2.1. This By-law applies to all Staff, Departments, Council, Boards and Committees of the Township with respect to the Township's procurement activities.
- 2.2. This By-law applies to the procurement of all goods and services, including construction services, except for those items set out in Schedule "A". This By-law also applies to the disposal of the Township's surplus assets, which is governed by the Surplus Assets Disposal Policy set out in Schedule "C".
- 2.3. This By-law does not apply to the acquisition or disposal of real property, as set out in Schedule "A". The disposal of real property is governed by the applicable Policy and /or By-Law in effect at the time of such disposition.

- 2.4. In addition to this By-Law, the Township has procedures, protocols, templates, and forms for use during the procurement cycle. All tools for engaging in procurement activities will be maintained and updated by the Director of Finance, as required, and will be stored in the Township's electronic filing system. Staff are required to use the Township's standard templates and forms and comply with all applicable procedures and protocols when conducting procurement activities.
- 2.5. Contract splitting, subdividing or otherwise structuring procurement requirements or contracts in order to reduce the contract value or in any way circumvent the requirements or intent of this By-Law is not permissible.
- 2.6. All currency noted within this By-Law are in Canadian funds.

3. Definitions

3.1. The following definitions shall apply to this By-law:

“Approved Budget” means a budget approved by Council for the current fiscal year.

“Award Authority” means the authority to approve the award of a Contract to a supplier for the acquisition of goods and services.

“Best Value” means the optimal balance of performance and cost determined in accordance with a pre-defined evaluation plan.

“Bid” means a submission from a supplier in response to bid solicitation document.

“Bid Solicitation Document” means a document issued by the Township to solicit competitive bids from suppliers and includes a Request for Quotations (“RFQ”), Request for Tenders (“RFT”) and Request for Proposals (“RFP”).

“Bidder” means a supplier that submits a bid.

“CAO” means the Chief Administrative Officer of the Township, or Designate.

“Competitive Bidding Process” means a procurement method where multiple suppliers are given an opportunity to submit bids in response to bid solicitation document.

“Contract” means a legally binding commitment between the Township and one or more supplier(s) for the acquisition of goods and services.

“Contract Value” means the total estimated expenditures under a contract over the entire period of the contract, including options and renewal periods, exclusive of Harmonized Sales Tax (H.S.T.).

“**Council**” means the Council of the Corporation of the Township of Springwater.

“**Department Head**” means the Head of a specific Department/Division, or Designate, who is responsible for a departmental budget for the Township.

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

“**Director of Finance**” means the Director of the Township’s Finance Department or Designate.

“**Goods**” means moveable property and includes supplies, equipment, materials, products, software, furniture, and other physical objects.

“**Procurement**” or “**Purchase**” means the acquisition of goods and/or services by purchase, rental, or lease.

“**Procurement Coordinator**” means the Township’s Procurement & Claims Administration Coordinator, or Designate

“**Services**” means all services, including professional services and construction services, unless otherwise specified.

“**Single Source**” means more than one source is available, but the circumstances justify the selection of a supplier without a competitive bidding process.

“**Sole Source**” means there is only one available supplier of the required goods or services.

“**Supplier**” means any individual or organization that is providing or may provide goods or services to the Township, including but not limited to contractors, consultants, vendors, and service providers.

“**Township**” means the Corporation of the Township of Springwater.

4. Roles and Responsibilities

Role of Council

- 4.1. In accordance with Section 224 of the Municipal Act 2001, it is the role of Council to establish the Township’s policies and ensure administrative policies and procedures are in place to ensure the accountability and transparency of the Township’s procurement operations.

- 4.2. In respect of the Township's procurement operations, Council fulfils its role under Section 224 of the Municipal Act 2001 by establishing the policies set out in this By-law and approving expenditures through the Township's budget approval process. In accordance with best practices in municipal procurement, Council recognizes the need for a clear separation of political and administrative functions in relation to the Township's day-to-day procurement operations.
- 4.3. Through this By-Law, Council delegates to the Township's Senior Management, the authority to incur expenditures in accordance with approved budgets through the procurement of goods and services and execution of contracts in accordance with the policies set out in this By-law and applicable procedures.
- 4.4. To facilitate Council's oversight role in respect of significant projects, Council may require staff to obtain Council's authority to initiate specific procurements by identifying projects of interest, such as those that are of a high value or involve significant risks, security concerns or significant community interest.
- 4.5. Council may provide strategic direction and guidance on major projects prior to the commencement of the procurement process; however, Council will not be involved in the day-to-day procurement operations or individual procurement processes, except to the extent that the approval of Council is required under this By-law or in the event that an exception to this By-Law is required.
- 4.6. To avoid the potential appearance of bias or political influence in procurement contract award decisions, members of Council will not be involved in competitive bidding processes until a contract has been entered into with the successful bidder, except where Council is required to approve the contract award in accordance with the By-Law.

Staff Responsibilities

- 4.7. The CAO is responsible for:
 - (a) Promoting the By-law and overseeing the Director of Finance with respect to fulfilling the duties of the By-law;
 - (b) Approving the award of contracts in the circumstances and subject to the conditions specified in the Bylaw; and
 - (c) Inform Council if non-compliance with this By-law occurs.

The CAO also has the authority to instruct Department Heads 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.

- 4.8. The Director of Finance is responsible for:
- (a) Overseeing the Procurement Coordinator with respect to fulfilling the duties of the By-law;
 - (b) Providing procurement advice and services to Departments;
 - (c) Approving the award of contracts in the circumstances and subject to the conditions specified in the By-law; and
 - (d) Monitoring compliance with this By-law and escalating incidences of non-compliance to the CAO.
- 4.9. The Procurement Coordinator is responsible for:
- (a) Ensuing the consistent application of this By-Law and applicable procedures, and recording instances of non-compliance;
 - (b) Providing procurement advice and services in an efficient and diligent manner;
 - (c) Providing procurement services, including necessary forms, Contract, and competitive bid process document templates as required by departments to fulfill the Township's procurement needs;
 - (d) Facilitating all aspects of the procurement process, including creating and issuing solicitation documents, opening and verifying compliance with the terms and conditions of the solicitation document, facilitating the award and execution of contract process, initiating contract extensions, processing change orders, and assisting in Contractor performance issues;
 - (e) Maintaining current insurance certificates, WSIB certificates, and bonds, as called for in the bid solicitation document or contract.
 - (f) Researching, developing, maintaining and updating procurement policies, procedures, protocols, templates and forms;
 - (g) Addressing any issues or concerns that arise in respect of a procurement process and seeking guidance, support, and advice of the CAO, the Director of Finance, Department Heads, and legal counsel, as required; and
 - (h) Providing appropriate orientation, training and tools to employees involved in the procurement process.

4.10. Department Heads are responsible for:

- (a) Overseeing all procurement activities within their Department and ensuring those activities are conducted in accordance with this By-law and applicable procedures.
- (b) Preparing requirements, specifications and scope of work for procurements;
- (c) Encouraging full, open, fair, and transparent competition;
- (d) Awarding contracts in the circumstances and subject to the conditions specified in the By-law;
- (e) Managing the contact up to completion of the performance of all contractual obligations of the supplier and the Township, including payment and obtaining necessary approvals for such actions as early termination or contract amendments;
- (f) Ensuring that the deliverables conform with contract terms, conditions, and specifications throughout the term of a contract; and

Department Heads will inform the Director of Finance and the CAO if non-compliance with this By-law occurs.

Department Heads will be held accountable for any decision to proceed with a procurement process or transaction that is not conducted in accordance with the By-law.

4.11. Department Employees and any other individuals conducting procurement activities on behalf of the Township are responsible for:

- (a) Complying with this By-Law, and all related policies and procedures
- (b) Understanding their obligations and responsibilities under this By-Law and related policies and procedures and consulting with the Procurement Coordinator if they have any questions regarding their application or interpretation.

4.12. Bid Review Committee

- (a) The Township's CAO and Department Heads are responsible for establishing a Bid Review Committee (BRC) to determine matters referred by the Director of Finance.

- (b) The BRC will consist of the Director of Finance, the CAO or designate, and another person designated by the Department Heads.
- (c) Where irregularities occur, outside of that covered by this By-law, the Director of Finance shall refer the irregularity to the BRC for review and recommendation.
- (d) Where the BRC cannot reach an agreement on a recommendation or otherwise determines is advisable, the matter will be referred to legal counsel for recommendation.

5. Authorization

Authority for Expenditures

- 5.1. Council has the ultimate authority for all expenditures. Council delegates the authority to Staff for the procurement of goods and services through the authorization of annual budgets or by Council resolutions.
- 5.2. To ensure proper expenditure management and budget accountability, each Department Head is responsible for ensuring that all procurements remain within the Department's approved operating budget or approved capital project budget.
- 5.3. Reallocation of funds between Operating Budgets and Capital Budgets is not permitted unless authorized by Council.

Authority to Award Contracts

- 5.4. Schedule "B" of this By-law outlines the approval authority for awarding contracts for the procurement of goods and services on behalf of the Township. No award may be communicated to a supplier until approved by the appropriate authority.
- 5.5. All contract awards with a contract value of \$75,000 or greater that are made through delegated authority require completion of Contract Award Approval Form.
- 5.6. Despite any other provisions of this By-law, Council approval is required for:
 - (a) the award of any contract with a contract value greater than \$75,001;
 - (b) the award of any contract requiring approval from the Ontario Land Tribunal;
 - (c) the procurement of goods or services that are not already approved in the current year's budget, such as items requiring pre-budget approval or post-budget amendments;

- (d) the award of any contract where the recommendation to award to the supplier is not in accordance with the requirements of this By-law and applicable procedures.

Authority to Execute Contracts

- 5.7. All contracts, as outlined in Schedule “B” and approved according to this By-law, are to be executed by the Department Head.
- 5.8. The form of contract to be used will be a Township standard template determined by the Department Head, in consultation with the Director of Finance, in accordance with applicable procedures.
- 5.9. The term of a contract will be determined by the Department Head, in consultation with the Director of Finance. The initial term of a contract must not exceed three (3) years and the total length of the contract, including renewals, must not exceed five (5) years.
- 5.10. The contract must not be executed until the award of the contract is approved and all required documentation identified in the bid solicitation document has been received in satisfactory form.

Authority to Renew or Extend Contract

- 5.11. Where a contract contains an option for renewal or extension, the Department Head may authorize such option provided that:
- (a) the supplier's performance is satisfactory and meets the requirements of the contract;
 - (b) exercising the renewal option is in the best interests of the Township; and
 - (c) sufficient funds are available in an approved budget.

Authority to Approve Change Orders

- 5.12. If an unforeseen change in the scope of work requires the procurement of additional deliverables under an existing contract, the Department Head is authorized to approve a change order in accordance with this By-law and the Township’s change order procedure, provided that sufficient funds are available in an approved budget.

Authority to Make Payments

- 5.13 The Department Head shall have the authority to approve payments for goods and services received such that there was a procurement according to this by-law or Schedule “B”.

6. Methods of Procurement

- 6.1. Staff must determine the contract value, which must include all estimated expenditures over the entire period of the contract, including options and renewal periods, prior to determining the appropriate procurement method.
- 6.2. The Township will use the following methods of procurement, unless an alternative procurement method is approved in accordance with this By-law:

Contract Value	Procurement Method	Format / Process
Below \$5,000	Direct Purchase	1 or more informal quote(s) by phone, or email or from website or catalogue
\$5,001 - \$15,000	Informal Quotes	3 or more informal quotes obtained by phone or email
\$15,001 - \$75,000	Invitational Competition	RFQ or RFP issued to 3 or more suppliers *Optional – Public Competition*
\$75,001 and above	Public Competition	RFT or RFP publicly advertised on the Township’s designated tendering website

Direct Purchases and Informal Quotes

- 6.3. If the contract value is below \$5,000, Department Heads may delegate authority to Department employees to purchase the goods and services from such suppliers and upon such terms and conditions as the Department Head deems appropriate. Only one quote is required, but Department Heads are encouraged to obtain and compare multiple quotes to demonstrate best value when practicable.
- 6.4. If the contract value is between \$5,001 and \$15,000, Department Heads are required to obtain a minimum of three informal quotes.
- 6.5. Purchases below \$15,000 should be made using one of the following methods and in accordance with the policies associated with each:
 - (a) a pre-arranged method whereby the supplier has agreed to invoice the Township; or
 - (b) a corporate credit card – see “Township Corporate Credit Card Policy”.

Invitational Competition

- 6.6. An Invitational Competition will be used when the value of the goods and services is between \$15,001 and \$75,000.
- 6.7. A Request for Quotations (RFQ) should be used when best value for the Township can be achieved based on selection of the lowest compliant bid.
- 6.8. A Request for Proposals (RFP) should be used when best value for the Township can be achieved by evaluating qualitative criteria in addition to cost.
- 6.9. The Department Head is responsible for preparing the bid solicitation document and conducting the Invitational Competition in accordance with applicable procedures.
- 6.10. Bids must be received, reviewed, and evaluated in accordance with the bid solicitation document and applicable procedures.
- 6.11. Any contract(s) resulting from an Invitational Competition must be awarded to the successful bidder(s) based on the outcome of the evaluation and selection process described in the bid solicitation document.

Public Competition

- 6.12. A Public Competition will be used when the value of the goods and services is \$75,001 or above.
- 6.13. A Request for Tenders (RFT) should be used when:
 - (a) the Township can clearly define its requirements; and
 - (b) best value for the Township can be achieved based on selection of the lowest compliant bid.
- 6.14. A Request for Proposals (RFP) should be used when
 - (a) the solution to the Township's requirements cannot be clearly defined and innovative solutions are needed; and
 - (b) best value for the Township can be achieved by evaluating qualitative criteria in addition to cost.
- 6.15. A Public Competition may also be conducted in two stages by first issuing a publicly advertised Request for Pre-Qualification (RFPQ) to pre-qualify the suppliers that will be eligible to respond to the RFT or RFP. Selection of pre-qualified suppliers will be based on fully disclosed evaluation criteria, which may

include experience carrying out similar work, verification of applicable licenses and certificates, financial capability, and other factors.

- 6.16. The Department Head is responsible for developing detailed specifications and scope of work for inclusion in the bid solicitation document. The Procurement Coordinator, in consultation with the Department Head, is responsible for finalizing the bid solicitation document and conducting the Public Competition in accordance with applicable procedures.
- 6.17. Bids must be received, reviewed, and evaluated in accordance with the bid solicitation document and applicable procedures.
- 6.18. Any contract(s) resulting from a Public Competition must be awarded to the successful bidder(s) based on the outcome of the evaluation and selection process described in the bid solicitation document.

7. Other Processes

Market Research Tools

To protect the integrity of the procurement process, the following market research tools shall be through the Procurement Coordinator.

- 7.1. A Request for Information may be issued in advance of a procurement to provide staff with an understanding of potential solutions/needs and assist in the development of requirements, specifications, scope of work and/or terms and conditions.
- 7.2. A Request for Expression of Interest may be issued to obtain information on the availability and interest of suppliers of any goods or services.
- 7.3. Requests for Information and Requests for Expression of Interest are used to conduct market research, without the intention of evaluating the responses or awarding a contract. These processes may not be used to pre-qualify a potential supplier and must not influence their chances of being a successful bidder on any subsequent purchasing opportunity.
- 7.4. The issuance of a Request for Information or Request for Expression of Interest does not obligate the Township to proceed with a competitive bidding process.

Qualified Supplier Lists

- 7.5. A Qualified Supplier List may be established through a publicly advertised pre-qualification process, which prequalifies suppliers to be placed on a list of

suppliers that will be eligible to supply particular goods and services to the Township.

- 7.6. Qualified Supplier Lists will be for specified types or categories of goods and services and will be valid for a specified period of no longer than three years. Depending on the contract value of subsequent procurements contracts may be awarded to suppliers on the Qualified Supplier List on a rotational basis or based on quotes submitted by the suppliers.
- 7.7. Department Heads, in consultation with the Procurement Coordinator, are responsible for establishing and managing Qualified Supplier Lists in accordance with applicable procedures.

Cooperative Purchasing

- 7.8. The Township supports cooperative initiatives that the Director of Finance deems beneficial to the Township. The Township may participate with other units of government (such as Vendors of Record provided by the Ministry of Government Services or legislated cooperatives) in their initiatives for cooperative purchasing and bulk buying of goods.
- 7.9. Cooperative purchasing processes may be conducted in accordance with the policies and procedures of the entities or public authorities managing the process. Approval authority shall be in compliance with this By-law.
- 7.10. Notice of Participation in cooperative purchases will be posted on the Township's designated tendering website.

Sole and Single Sourcing

- 7.11. Sole Sourcing is a method of procurement whereby a contract is awarded without a competitive bidding process because the supplier is the only source of supply for the required goods or services. Sole Sourcing will be permitted if one or more of the following circumstances apply:
 - (a) One supplier/contractor possessing the unique ability or capability to meet the requirements of the Township due to a patent, sales/distributor agreement or copyright.
 - (b) The supply relates to necessary unique replacement parts from an exclusive source of supply.
 - (c) The supply relates to the purchase of parts that must be compatible with goods previously supplied, and there are no reasonable alternatives to the products.

- (d) To maintain warranty or service agreement compliance for purchased products.
 - (e) When the required item is covered by an exclusive right such as a patent, copyright, or exclusive license.
- 7.12. Single Sourcing is a method of procurement whereby there is more than one supplier able to supply the goods or service, but a contract is awarded without a competitive bidding process due to specific circumstances. Single Sourcing will be permitted if one or more of the following circumstances apply:
- (a) Disclosure of information in an open contract competition would breach some duty of confidentiality or compromise security.
 - (b) The compatibility of the goods and/or services with existing equipment, product standards, facilities or service is a paramount consideration.
 - (c) There is an absence of competition for technical reasons and the goods and/or services can only be supplied by a particular supplier.
 - (d) An unforeseeable situation of urgency exists and the goods and/or services cannot be obtained in time by means of competitive bidding process.
 - (e) The Township conducted a competitive bidding process for the goods and services and received no bids.
- 7.13. Any single source or sole source procurement with a contract value over \$15,001 must be approved in accordance with Schedule "B" before the Department Head may proceed with the procurement.

Procurement in Emergencies

- 7.14. Failure to plan and allow sufficient time for a competitive bidding process does not constitute an unforeseeable or emergency situation.
- 7.15. Emergency includes:
- (a) an imminent or actual danger to the life, health, or safety of the public; health or safety of an official or an employee while acting on the Township's behalf;
 - (b) an unexpected occurrence interruption of essential public service;
 - (c) an imminent or actual danger of damage to or destruction of real or personal property belonging to the Township or public if the damage or destruction is a result of a Township function or responsibility;
 - (d) defined by the Emergency Management and Civil Protection Act as amended or The Township of Springwater Emergency Response Plan;

- (e) a spill of a pollutant as contemplated by the Environmental Protection Act as amended; and
- (f) when an urgent procurement is necessary for fulfilling a statutory order issued by a federal, provincial, or regulatory authority and timing of the order does not allow for competitive bidding (i.e., compliance order).

7.16. When goods or services are required in the event of an emergency, the Department Head may procure the goods and services in an expedited manner and shall submit a report to Council outlining the procurement and the conditions that constituted an emergency, together with a source of funding, prior to the end of the quarter in which the emergency procurement took place. If Council approval for the funding source is required, the Department Head shall submit the above information in the form of a Staff Report to the next available Council meeting.

Unsolicited Proposals

- 7.17. Unsolicited proposals will not be accepted by the Township.
- 7.18. If it is determined that there is a legitimate need for the deliverables offered by way of an unsolicited proposal, then a procurement process shall be conducted in accordance with this By-law.

8. Additional Considerations

Accessibility for Ontarians with Disabilities Act (AODA)

- 8.1. Public sector organizations in Ontario, including the Township, must comply with the regulations under AODA. The Accessibility Standard for Customer Service also applies to third parties that provide goods and services to members of the public on behalf of a public sector organization.
- 8.2. Department Heads must ensure that contracts require the supplier to meet all requirements under the AODA and associated regulations.

Sustainable Procurement

- 8.3. The Township is committed to purchasing environmentally friendly deliverables with due regard to the protection of the environment and public health, conservation of natural resources, reduction of toxicity and the minimization of waste. All Departments are encouraged to seek additional ways of achieving the goal of being environmentally friendly and responsible by thorough review of each procurement process to ensure that where possible and economically feasible, specifications/terms of reference, scope provide for,

- (a) Expanded use of deliverables that contain post-consumer recyclable content
- (b) Consideration of products, certified by an independently accredited organization, that prevent the over consumption of energy and other resources and reduce the production of waste, and release of substances harmful to the environment and or public health.
- (c) Consideration of energy efficiency and water conservation where applicable; and
- (d) Consideration of Leadership in Energy and Environmental Design (LEED) for new buildings and renovations

Exclusion of Bidders in Litigation

- 8.4. The Township may, in its absolute discretion, reject a bid submitted by a bidder prior to or after a bid opening, if the bidder:
- (a) is a party to litigation with the Township; or
 - (b) directly or indirectly, including by common ownership or control or otherwise, is related to a party to litigation with the Township; or
 - (c) intends to use a sub-contractor in respect of the specific project who is a party to litigation with the Township, or, who, directly or indirectly, including by common ownership or control or otherwise, is related to a party to litigation with the Township.
- 8.5. For the purposes of this section, the phrase “party to litigation with the Township” includes cases in which the bidder or prospective bidder or any of the parties named above, have advised the Township in writing of their intention to commence litigation, or have commenced or have advised the Township of their intention to commence an arbitral proceeding against the Township.
- 8.6. In determining whether or not to reject a bid under this section, the Township will consider whether the litigation is likely to affect the bidder’s ability to work with the Township, its consultants and representatives, and whether the Township’s experience with the bidder in the matter giving rise to the litigation indicates that the Township is likely to incur increased staff or legal costs in the administration of the contract if it is awarded to the bidder.
- 8.7. All bid solicitation documents issued by the Township pursuant to this policy shall contain a statement to the effect described above.

No Local Preference

- 8.8. The Township imparts fair and impartial award recommendations for all contracts and does not extend preferential treatment to any bidder, including local companies, when evaluating bids and awarding contracts in a public competition.

Tie Bids

- 8.9. In the case of tie bids, where multiple awards are not an alternative for award, the Township shall determine the successful bidder by coin toss or, in the case of more than two tied bids, by a draw of the bidders' names from a hat. The Director of Finance and at least two members of the Department must be present for the coin toss or draw.

Debriefing

- 8.10. After receipt of a notification of the outcome of the procurement process an unsuccessful bidder may request a debriefing. All requests must be in writing to the Township's contact person identified in the bid solicitation document and must be made within thirty (30) days of such notification. The intent of the debriefing information session is to aid the bidder in presenting a better bid in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process or its outcome.

9. Conduct and Conflicts of Interest

Conflict of Interest

- 9.1. A conflict of interest arises where a personal or business relationship or interest of a councillor, officer, committee member or employee of the Township is in conflict or is perceived to be in conflict with the best interest of the ratepayers of the Township, and includes, the giving or receiving of personal gain, benefit, privilege, or advantage, directly or indirectly, by a business or individual or family member of an individual that provides or could in future provide good and services to the Township.
- 9.2. The acceptance of gift, money, benefit, favour or hospitality, the frequency or nature of which could be deemed by others as an influential factor related to any business decision that a councillor, officer, committee member or employee of the Township might make, is prohibited.
- 9.3. Anyone participating in procurement activities and decision-making on behalf of the Township must disclose all potential conflicts of interest to the CAO.

Reward Points/Loyalty Programs

- 9.4. When procuring goods and services on behalf of the Township, staff may not acquire or accumulate points through loyalty programs such as Air Miles, Aeroplan, etc., either directly or indirectly, unless the benefit accrues to the Township

Supplier Conduct and Conflict of Interest

- 9.5. The Township expects its suppliers to act with integrity and conduct business in an ethical manner.
- 9.6. The Township may refuse to do business with any supplier that;
- (a) has engaged in illegal or unethical bidding practices
 - (b) has an actual or potential conflict of interest
 - (c) has an unfair advantage in the procurement process
 - (d) fails to adhere to ethical business practices

Lobbying Prohibited

- 9.7. The Township will be entitled to reject a bid submission if any representative of a bidder, including any other parties that may be involved in a joint venture, consortium, subcontractor, or supplier relationship, makes any representation or solicitation to any elected official, employee, or agent of the Township during the competitive bidding process. This requirement does not extend to any public deputations that may be made to Council in accordance with the Procedural By-law.

10. Risk Management

Bid Deposits

- 10.1. The Director of Finance, in consultation with the Department Head, will determine whether a bid deposit will be required as part of the bid submission requirements. If required, the bid solicitation document will specify the required amount and acceptable forms of bid deposit.

Financial Guarantees and Contract Performance Security

- 10.2. Department Heads, in consultation with the Director of Finance, must ensure that contracts include appropriate financial means to guarantee performance of the contract. Means may include one or more of but are not limited to: financial bonds or other forms of security deposits; provisions for liquidated damages; progress payments; and holdbacks.

10.3. The financial guarantees must:

- (a) not be excessive, but be sufficient to cover financial risks to the Township;
- (b) ensure the penalties are proportional to the deficiencies; and
- (c) comply with provincial statutes and regulations.

Insurance

- 10.4. Contracts must require the supplier to maintain insurance coverage sufficient to protect the Township.
- 10.5. The appropriate insurance coverage will be determined by the Procurement Coordinator in consultation with our insurance provider.
- 10.6. The Procurement Coordinator is responsible for obtaining proof of insurance coverage from the supplier prior to execution of the contract.

Workplace Safety Insurance Board (WSIB)

- 10.7. Where a supplier will be providing services on the Township's property, the Procurement Coordinator is responsible for obtaining a clearance certificate from the supplier prior to any work commencing on the contract.

Contract Management

- 10.8. It is the responsibility of the applicable Department Head to manage the Contract. Contract management shall include monitoring, documentation, invoice approvals and communication.

Supplier Performance and Suspension

- 10.9. The performance of a supplier under contract must be monitored and tracked in accordance with the Township's supplier performance evaluation procedures. Suppliers may be suspended from participating in future procurement processes in accordance with the Township's Supplier Suspension Policy.

Cancellation or Termination of Contract

- 10.10. The Township's rights to cancel or terminate a contract will be in accordance with the terms and conditions of the contract. Contracts may only be cancelled or terminated prior to their expiration date in consultation with the Director of Finance.

11. Records and Reporting

Custody and Retention of Documents

- 11.1. Original executed contract document shall be provided to and retained by the Clerk's Office.
- 11.2. All original purchasing and contract documentation shall be retained in accordance with the Records Retention By-law.

Access to Information

- 11.3. The disclosure of information received from suppliers in connection with a competitive bidding process or contract shall be made only by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended, or as may otherwise be required by law.
- 11.4. Public reporting will not include summaries of bids, as this information will remain confidential. Any public disclosure of information shall be made by the Clerk in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, as amended.

12. By-law Amendments and Reviews

- 12.1. All changes to this By-law require the approval of Council except for changes of an administrative nature, such as the change in title of a position.
- 12.2. A formal review of the By-law must be undertaken by the Director of Finance at least once every five (5) years; however, failure to conduct a review within the time period set out shall not have an effect on the validity of this By-law.

13. Schedules

- 13.1. The following Schedules form part of this By-law:
 - Schedule "A" - Exclusions
 - Schedule "B" - Award Authority
 - Schedule "C" - Surplus Assets Disposal Policy

14. Related Policies, Trade Agreements and Legislation

CETA - [Comprehensive Economic Trade Agreement](#)

CFTA - [Canadian Free Trade Agreement](#)

OQTCA – [Ontario and Quebec Trade and Cooperation Agreement](#)

[Municipal Act 2001](#)

[Municipal Conflict of Interest Act](#)

[Discriminatory Business Practices Act](#)

[Municipal Freedom of Information and Protection of Privacy Act](#)

Schedule “A” - Exclusions

1. Real Property

This By-law does not apply to contracts or expenditures for the sale, purchase, lease, or license of real property, including land or existing buildings.

2. Employment Contracts and Employee Expenses

This By-law does not apply to employment contracts, employee benefits, payroll deduction remittances, and employee related expenses, such as: refundable travel expenses, meal allowances, memberships in professional organizations, staff attendance at seminars, workshops, courses, training, trade shows or conferences.

3. Excluded Procurements

This By-law does not apply to the procurement or acquisition of:

- (a) Goods or services from another government entity or public body
- (b) Goods for the purpose of commercial sale or re-sale by the Township
- (c) Health or social services
- (d) Legal services
- (e) Services of expert witnesses or factual witnesses used in court or legal proceedings
- (f) Financial services
- (g) Fiscal agency or depository services
- (h) Realty services regarding lease, acquisition, demolition, sale, disposal, or appraisal of real property
- (i) Bailiff or collection agency services
- (j) Advertising services required in radio, television, newspaper, or magazines
- (k) Works of art and performance artists
- (l) Magazines, books, and periodicals

4. Other Transactions and Expenditures

This By-law does not apply to contracts, transactions, or expenditures for:

- (a) Refundable Councillor expenses
- (b) Insurance premiums
- (c) Payments of debts
- (d) Any form of financial assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives
- (e) Insurance claims, damage claims, legal settlements, and grievance settlements
- (f) Debenture payments
- (g) Tax remittances
- (h) Refunds to property owners (property tax, building permit, entrance permit, etc.)
- (i) Utilities
- (j) Other regulating authorities operating within and across the municipal right of ways

Schedule “B” – Award Authority

Contract Value	Procurement Method and Process	Award Authority*
Below \$5,000	Direct Purchase: 1 or more informal quote(s) by phone, or email or from website or catalogue	Department Head may delegate to staff
\$5,001 - \$15,000	Informal Quotes: 3 or more informal quotes obtained by phone or email	Department Head
\$15,001 - \$75,000	Invitational Competition: RFQ or RFP issued to 3 or more suppliers	Department Head
\$75,001 and over	Public Competition: RFT or RFP publicly advertised on the Township's designated tendering website	Council
\$15,001 - \$75,000	Single Source or Sole Source: Direct negotiation of contract with single or sole source supplier	CAO
\$75,001 and above	Single Source or Sole Source: Direct negotiation of contract with single or sole source supplier	Council
Any value	Emergency Purchase: Process at the discretion of the Department Head & CAO	Department Head with approval of the CAO or designate Department Head and CAO must report to Council at first meeting following emergency

Schedule “C” Surplus Assets Disposal Policy

The Township’s surplus assets shall be managed and disposed of in accordance with the following:

- a) When a Department Head or the CAO 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.
- b) When a Department Head has determined that an item owned by the Township is surplus to the need of their department and may be of value to another Township department or facility, an email shall be sent to the other Department Head offering the item.
- c) In the event that an item is no longer required for Township purposes and the cost to prepare the item for sale exceeds the estimate value, the Department Head, with the approval of the CAO and or Director of Finance, may dispose of the item in the following manner:
 - Donate this item to any interested local non-profit organization for charitable purposes (i.e., school, church, day care, seniors centre), or
 - Dispose of item at an approved landfill site or recycling centre.
 - Trade in at fair market value
- d) 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, the Department Head shall recommend to the Director of Finance that the item be advertised for sale in the following manners:
 - Public notice on Township Website and Springwater Link or another public forum, to be sold via public auction.
 - All notice or advertisements shall be pre-approved by the Director of Finance.
- e) A notice as determined above shall include the date and time for closing of offers
 - 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 submitted via electronic bidding.
- f) Funds received from the disposal of surplus items be credited to the appropriate accounts, as determined by the Director of Finance.