



BY-LAW NO. 133-14

OF THE

CORPORATION OF THE CITY OF CAMBRIDGE

Being a by-law of the Corporation of the City of Cambridge to provide for procurement procedures and to repeal Purchasing By-law No. 15-04 as amended.

WHEREAS the Council of the Corporation of the City of Cambridge has deemed it desirable to have a by-law to provide for fair, transparent and accountable purchasing and tendering procedures and thereby to protect Council, vendors and staff involved in the process by providing clear direction and accountabilities;

AND WHEREAS the Council of the Corporation of the City of Cambridge has deemed it desirable to repeal By-law 15-04 as amended, being the Purchasing and Tendering By-law and pass a new by-law as herein set out;

AND WHEREAS The Municipal Act 2001, SO 2001. c. 25 Part VI, s. 271 states that Before January 1, 2005, a municipality and a local board shall adopt policies with respect to its procurement of goods and services, including policies with respect to;

- (a) the types of procurement processes that shall be used;
- (b) the goals to be achieved by using each type of procurement process;
- (c) the circumstances under which each type of procurement process shall be used;
- (d) the circumstances under which a tendering process is not required;
- (e) the circumstances under which in-house bids will be encouraged as part of a tendering process;
- (f) how the integrity of each procurement process will be maintained;
- (g) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- (h) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
- (i) any other prescribed matter.

NOW THEREFORE BE IT RESOLVED THAT THE CORPORATION OF THE CITY OF CAMBRIDGE ENACTS AS FOLLOWS:

PART I - DEFINITIONS:

1. In this by-law:

- a) "Authority" or "Authorized" means the legal right to conduct the tasks outlined in this by-law as directed by Council and delegated through the Office of the Chief Administrative Officer to the Treasurer or designate and subsequently to the Manager of Purchasing. Authorized purchases are those that have prior approval of Council either through resolution or through the departmental budget.
- b) "CAO" means the Chief Administrative Officer of the Corporation of the City of Cambridge.
- c) "Conflict of Interest" is defined as a conflict between an employee's personal interest, financial interest and his/her responsibility as an employee of the City of Cambridge that interferes with, or has the potential to interfere with, the performance of his/her position in serving the interests of the City of Cambridge. Immediate family/relatives - parent, spouse, child, sibling, grandparent, grandchild, step and common-law relationships as well as in-law relationships - are also included in this definition.
- d) "Consultant" means a person or firm, who by virtue of a particular expertise, is hired by the Corporation to undertake a specific task or assignment that may include designing specifications and preparing plans or programs.
- e) "Contract" means any formal legal agreement for supply of goods, services, equipment or construction.
- f) "Contract Order" means an agreement between the Corporation and a supplier under which the supplier agrees to sell a product or service to the Corporation for an agreed period of time and at an agreed pricing arrangement. The value limit shall refer to the estimate annual expenditure under the contract.
- g) The "Corporation" or "the City" means the Corporation of the City of Cambridge.
- h) "Council" means the Municipal Council of the Corporation of the City of Cambridge.
- i) "Department" means any department within the Corporation.
- j) "Department Head" means a member of the Management Committee or designate.
- k) "Designate" means a person authorized by the Department Head or by the Manager of Purchasing to act on his/her behalf, for the purposes of this by-law.
- l) "Emergency" means an event that occurs, which in the opinion of the Chief Administrative Officer or designate, requires immediate repair or replacement of equipment, services, or facilities in order to maintain a required public service or to prevent danger to life, limb or property within the City of Cambridge.

- m) "Formal Quotation" means an offer in writing by way of a call for Quotation to execute certain specified work or to supply certain specified goods or services at an estimated value of \$50,000 to \$100,000 and at a specific rate in response to the information contained in the call for quotation.
- n) "Goods and Services" means all supplies, materials or equipment and related procurement services. This may include installation, training, inspection, maintenance and repairs and related procurement services, but does not include land purchases, sales and property leases.
- o) "Life Cycle Costing" means to determine the lowest cost of ownership of a fixed asset including criteria such as purchase price, installation, operation, maintenance and upgrading, disposal, and other costs during the asset's economic life.
- p) "Manager" means the Manager of Purchasing and Inventory or designate.
- q) "Mayor" means the elected Mayor of the Corporation or the person duly appointed to act in place of the Mayor.
- r) "Performance Evaluation" means the formal Prime Contractor/Consultant Performance Evaluation System.
- t) "Procedures" means internal instructions or guidelines to departments, approved by the Management Committee.
- u) "Proposal" means an offer to supply goods or services on which end results are outlined but no detailed specifications given to the bidders as to the goods or how the work is to be performed.
- v) "Purchasing Card" means a card that can be used by authorized employees of the Corporation to purchase goods as outlined in Clause 12 of this By-law.
- w) "Purchase Order" means the legal document that is the Corporation's commitment to the supplier for the value of the goods or services ordered. It is also the supplier's authority to ship and charge for the goods specified on the order.
- x) "Quotation" means a request for prices on specific goods or services obtained formally through a Call for Quotations or informally from selected sources, which are submitted verbally, in writing, by email or transmitted by facsimile as determined by the Manager of Purchasing.
- y) "Requisition" means a written or electronically transmitted request on an approved form, which is sent to Purchasing to procure goods and/or services.
- z) "Rolling Stock" means wheeled vehicles used by the corporation on roadways or operations. It includes both powered and unpowered vehicles or equipment.
- aa) "Tender" means an offer in writing by way of a Call for Tender to execute certain specified work or to supply certain specified goods or services at a specific rate in response to the information contained in the call for tender.

PART II - AUTHORITY:

2. This by-law authorizes the Manager of Purchasing, to act as the legal Purchasing Agent for the Corporation of the City of Cambridge.
3. The signatures of the Manager, or the Mayor and Clerk when legally required, are necessary on all agreements to purchase, lease or contract for goods and services. The Manager shall have signing authority for the City of Cambridge. The Mayor and Clerk shall be authorized to sign contracts where approved by Council.
4. Upon authority of a resolution of Council or a written and properly signed and authorized purchase document, the Manager shall, except as otherwise provided, purchase all goods, equipment and services. The Manager may however, initiate purchase orders for the replenishment of inventoried and commonly used items.
5. The Manager shall monitor adherence to the provisions of this by-law and the procedures adopted for its use. Failure to comply with the provisions of the by-law and the procedures shall be reported to the Treasurer. Continued non-compliance shall be reported to the C.A.O.
6. The Manager shall be responsible for maintaining good vendor relations and for the conduct of all negotiations with vendors, subject to the other provisions of this by-law. The Manager shall be provided with assistance from the Departments prior to the outset of calling tenders, in matters that require further expertise and may request assistance from Departments to undertake research into specific goods, services or suppliers.
7. All inquiries regarding materials, prices, services, delivery, terms, conditions and adjustments, are to be conducted by or through the Manager.

PART III - PURCHASING GUIDELINES:

8. Except as otherwise stipulated, any purchase of goods, services or equipment shall be made on a competitive basis, in keeping with accepted public purchasing practices and in accordance with the applicable federal, provincial and municipal laws. The City does not solicit in-house bids in competition with outside firms.
9. Splitting of purchases to avoid any of the purchasing process outlined in this By-law is strictly prohibited. Such practices shall be reported to the Treasurer. Continued non-compliance shall be reported to the C.A.O.
10. Dollar amounts shown in this by-law setting parameters for the purchasing process, except as otherwise stated, shall be the total cost excluding taxes and freight.
11. The Manager shall establish Contract Orders to assist in the replenishment of commonly used stock items and monitor the price of goods received against these contracts.
12. Authorization of capital work by Council shall constitute authorization for any purchase of materials and services necessary to carry out such work within the approved project cost provided such purchases are made in accordance with accepted purchasing

procedures. Where tender prices or on the job cost exceed the approved budget by amounts stipulated in the Capitol Budget Control Policy a report to Council must be submitted seeking authorization to proceed with the work and to expend additional funds over and above those originally approved.

PART IV – PURCHASING PROCESSES

LOW DOLLAR VALUE ITEMS

13. Authorized department staff may purchase goods or service, meant for a onetime need and not an ongoing need, to a limit of \$5,000.00, by using City Purchasing Cards or by signing and certifying an invoice indicating that goods have been received. The preferred method of payment in all cases is the Purchasing Card.
14. Authorized department staff are to solicit two competitive written quotations between **\$5,000.00 and \$20,000.00**. and three competitive written quotations between **\$20,000.00 and \$50,000.00** These quotations must be submitted with the purchase requisition to the Purchasing Department. Purchasing will solicit quotations for the above when requested by user Departments.

FORMAL QUOTATIONS.

15. Where the requirement for goods or services is estimated to **cost \$50,000.00 or more, but less than \$100,000.00** excluding taxes and freight, staff will work with the Purchasing Division and the purchase may be made on the authority of the Manager. Formal Quotations will be called when the cost is expected to exceed \$50,000 or for lesser amounts if deemed beneficial by the Manager. Formal Quotations will be opened in the presence of the Manager or designate and at least one other employee of the City.
16. Where information supplied indicates that Formal Quotations cannot be obtained for goods or services estimated to cost \$50,000.00 or more but less than \$100,000.00, excluding taxes and freight, justification for and approval to make the purchase is required from the Manager.

TENDERS AND PROPOSAL CALL PROCESS

17. All requirements for goods, services, equipment or construction for **\$100,000.00 or more**, excluding taxes and freight, shall be procured through sealed tender or proposal.
18. Bid Bonds, Performance Bonds and Labour & Material bonding are required as applicable, for all purchases over \$100,000.00. Purchases of a lesser value may include bonding requirements as deemed appropriate by the Manager, in consultation with the operating department.
19. The Manager shall issue all tender, proposal and consultants' calls and receive all bids and replies.

20. The Manager may, pre-qualify persons or firms or obtain desired information for any bid call where the Manager believes it to be in the best interest of the City.
21. Where the Corporation contracts work out in an agreement with the private sector, the policies and procedures of the Corporation will prevail in all tender, quotation and proposal calls.
22. At the discretion of the Manager and with the possible addition of information supplied by the initiating department, invitations to tender, and requests for quotations and proposals may be sent to potential bidders to ensure the best possible response to the call.
23. Through the utilization of the City's and/or designated website, notification of tenders and proposal will be posted and sent to registered firms. The onus is on interested firms to review the website from time to time for competitions that may be of interest to them.
24. All tenders will be opened in full view of all bidders and any members of the public who wish to attend at a reasonable time following the close of bidding. Total tendered prices will be read out at the public opening and will subsequently be posted for viewing on the City's website.
25. Except as otherwise provided, no work may commence or commitment to purchase goods shall be entered into, until such time as an official Purchase Order has been issued or a Contract signed, and all necessary documents and approvals received.
26. Requests for proposals may be called when the requirements for goods or services needed cannot be definitely specified. In these cases a proposal call will be made to obtain specific offers from bidders to fulfill the requirements for the goods or services at a particular price.
27. Requests for detailed proposals from consultants with specialized services or requirements may be used in a vendor qualification approval process using a pre-qualification procedure for specific projects, or a vendor roster process for multiple assignments.
28. Proposals shall be called in accordance with the Purchasing By-law, evaluated by the appropriate selection committee, including a facilitator from Purchasing, based on pre-established selection criteria and awarded in keeping with proper purchasing and tendering procedures.
29. Proposals for any type of consulting service such as engineering studies, architectural studies, feasibility studies or other similar requirements shall be called by the Purchasing Division according to the "Consultants" section of this By-law.
30. Calls for proposals either by invitation or requiring advertisement shall be done through the Purchasing Division in co-operation with the user Department.

CONSULTANTS:

31. Where the requirement for consultant services is estimated to cost **less than \$20,000.00**, excluding taxes, the Department Head will select and recommend approval of the choice of the Consultant to perform the work.
32. Where the requirement for consultant services is estimated to **be greater than \$20,000.00, but less than \$50,000.00**, excluding taxes, a minimum of three written proposals are required and the selection made by a Committee of three people with a process facilitator from Purchasing and the final approval of the selection by the Department Head and the Manager of Purchasing.
33. Where the requirement for consultant services is estimated to be greater than \$50,000.00, but less than \$100,000.00, excluding taxes, written proposals are required using the Formal Sealed Quotation process (item 14.) and the selection made by a Selection Committee consisting of three people with a facilitator from Purchasing with the final approval of the selection by the Department Head and confirmed by the Manager.
34. Where the requirement for consultant services is estimated to greater than \$100,000.00, excluding taxes, written formal proposals are required using the Tender/Proposal process (in accordance with this By-law) and a Selection Committee will be struck and comprise of a minimum of three (3) people and a facilitator from Purchasing. The Selection Committee will proceed through a staged evaluation process, with the final recommendation of the consultant choice in accordance with the Tender and Proposal Approval section of this by-law.

TENDER AND PROPOSAL APPROVAL:

35. The Manager is delegated the authority to approve the award of Tenders and Proposal over \$100,000.00 when all of the following conditions have been satisfied:
 - (a) when there is a sufficient funding, as approved by Council through the budget process and verified by the Finance Department by the Departmental Recommendation to Award Report.
 - (b) when all procedures in accordance with this By-law, have been followed.
 - (c) when the lowest compliant Tender bid or highest scored Proposal is accepted and recommended; and
 - (d) when at least three valid responses from vendors have been received.

Where all of the above four criteria are present, the procurement award shall be reported to Council quarterly by the Manager. Where one of the criteria has not been met, the procurement must be approved by separate report to Council for approval.

36. During any Council recess, the Chief Administrative Officer shall be authorized to award tenders that would require Council approval, and Council shall be given an Information Report outlining such awards within two weeks of the end of the recess.

CONSTRUCTION MANAGEMENT:

- (a) For construction projects, the Manager and Department Representative may elect to utilize a Construction Management process:
In cases where it is felt that this process would be beneficial to the City, the Manager shall require approval from Council to proceed with the selection of a Construction Management Firm.
- (b) Upon selection of a Construction Manager, Council will be asked to approve the budget for the project.
- (c) Following approval, all subcontracts called against the approved project that meet or fall within the aggregate budget, shall be authorized in accordance with the Tender/Proposal Approval section of this by-law.
- (d) The overall project funds may be reallocated between subcontractors so long as the overall budget is not exceeded.

SPECIFICATIONS:

- 37. The Departments shall be responsible to prepare and provide to the Manager, specifications when required. The Manager shall review all specifications, terms and conditions, to assure the procurement process achieves the goals outlined in this By-law.
- 38. All departments in conjunction with Purchasing staff shall review their quote, tender and proposal specifications for goods and services, to encourage sustainability wherever possible and economical, including measures to increase efficiency and use of renewable resources, promote green branding and decrease waste without significantly affecting the intended use or performance of the product or service. It is also recognized that life cycle costing analysis may be required in order to ensure that the sustainable products are made available at competitive prices in order to increase the development and awareness of the Corporate Sustainability Plan

CO-OPERATIVE TENDERS:

- 39. The Manager shall have the authority to join or participate with other units of government including local boards, commissions and agencies in co-operative purchasing, and bulk buying of goods.
- 40. Purchases made through co-operative buying procedures involving the Corporation require approval of the Mayor, Chief Administrative Officer and Treasurer only where the Corporation's portion of the purchase will be or exceed \$100,000.00 in value, excluding taxes and freight.

NOTWITHSTANDING REPORTS:

- 41. Reports to Council requesting authorization to proceed with a procurement of goods and/or services where the process to be used is outside of that provided for in this by-law shall be forwarded to the Manager for approval and/or comments prior to its review by Management Committee.

EMERGENCY PURCHASES:

42. When an emergency occurs, the Manager has the authority to issue a purchase order, upon receiving a written or verbal request from the Department Head concerned, for the goods or services required. In order to maintain business continuity in emergencies, Department Heads have the authority to procure goods and services and shall report same back to the Manager as soon as possible.
43. After the emergency is over, any expenditure over and above this By-law's authorization shall be reported according to the requirements of the By-law.

PURCHASE BY NEGOTIATION:

44. The Manager may under the following conditions negotiate with one or more bidders and in such cases the requirement for inviting tenders or quotations is waived:
 - (a) when in the judgment of the Manager, goods are judged to be in short supply due to market conditions;
 - (b) where there is only one source of supply for the goods or services;
 - (c) where two or more identical bids have been received;
 - (d) where the lowest tender or quotation meeting specifications, or highest ranking proposal, substantially exceeds the estimated cost and it is impractical to recall the tender, quotation or proposal;
 - (e) when all bids received fail to meet the specifications or tender terms and conditions and it is impractical to recall tenders or quotations;
 - (f) when no bids are received in a tender or quotation call;
 - (g) when only one bid received in a tender or quotation.
45. When negotiations are deemed necessary they shall be carried out jointly in co-operation with the Department and Manager subject to the conditions of this By-law.
46. The methods of negotiation shall be those accepted as standard negotiating procedures that employ fair ethical practices, as outlined in the Purchasing code of ethics of the Purchasing Management Association of Canada and the National Institute of Governmental Purchasing Inc. as amended from time to time.

PART V -ACQUISITION OF GOODS AND SERVICES FROM GOVERNMENT BODIES

47. The Manager may acquire any goods or services from a federal, provincial or municipal body, ministry, agency, board, corporation or authority when similar goods or services are not available from other sources or in the case of Provincial or Federal Standing Agreements, the Manager may take advantage of these opportunities if it they are deemed to be in the best interest of the City.

PART VI - DESIGN AND DEVELOPMENT SERVICE:

48. Suppliers, potential suppliers and consulting firms shall not be requested to expend time, money, or effort to design or develop specifications or otherwise help define a requirement beyond the normal level of service expected. Should such extraordinary services be required, the Manager will be advised. If there is no alternative but to request such services, then the company providing same, shall be compensated at a pre-determined fee. The resulting specifications shall become the property of the Corporation for use in obtaining competitive bids.
49. Suppliers or Consultants who provide design services and/or specifications for work to be tendered or quoted shall not be permitted to submit a bid for said work except with the approval from the Manager in consultation with the department.

PART VII - CONFLICT OF INTEREST:

50. In addition to City's Employee Conflict of Interest Policy the following will Apply:
- (a) The Manager shall not open and consider any bid, or otherwise acquire any goods or services from an elected official, officer or employee of the City unless the elected official, officer or employee obtains approval from Council prior to the close of the bid or the acquisition of the goods or services.
 - (b) No Council member or employee of the City may purchase goods or services for personal use through the Corporation unless authorized by Council or the Department Head and the C.A.O.
 - (c) No elected official, officer or employee of the City shall allow contact with a bidder/proponent, or any officer, employee or agent of the person who has submitted a bid to the City unless the bid call has been awarded and the contact is for the purpose of clarification and/or debriefing.

PART VIII - DISPOSAL OF SURPLUS:

51. Where any goods are surplus and/or obsolete, they shall be declared surplus to the Manager for disposal.
52. When no other use can be found for these items in other Departments, they shall be added to the surplus list and at the discretion of the Manager, disposed of through public auction, tender or quotation, whichever is in the best interest of the Corporation.
53. At the discretion of the Manager and in consultation with the Department Head, rolling stock that is declared surplus may be offered, for a fair price, to other municipal agencies within the Region of Waterloo prior to public disposal
54. Where the item has limited market value the Manager may, to the benefit of the Corporation, dispose of the item in a manner other than the ones listed above.

PART IX - PAYMENT:

55. The Treasurer shall honor and pay for all goods or services covered by a Purchase Order Contract, Progress Certificate on Construction or other authorized purchase methods available to City departments.
56. No prepayment of all or part of any goods, services or equipment shall be made unless provision for it is included in the Purchasing agreement as evidenced by a tender, purchase order, or other form of purchasing contract.
57. Purchases may be made by cash, for goods that are picked up by authorized department staff provided they do not exceed petty cash guidelines.

PART X - LEGAL CLAIMS:

58. No tender, proposal or quotation will be accepted from any company inclusive of its sub-contractor, which has a claim, instituted a legal proceeding, with which the City is in contemplation of litigation or against whom the City has a claim or instituted a legal proceeding with respect to any previous contract, without prior approval by Legal Services and/or Council.

PART XI –CONTRACT ORDERS:

59. The Manager shall be responsible for monitoring the prices of the commonly used goods and services required by departments and establish the necessary purchase contracts so that department staff can requisition their requirements in order to replenish as needed. Upon receipt of an authorized electronic requisition, the Manager shall proceed to contact suppliers in order to fulfill any requirement. The Manager may from time to time alter the source or method of supply when it is beneficial to do so.

PART XII - PERFORMANCE EVALUATION:

60. The Manager shall facilitate a performance evaluation at the substantial completion of a contract, if determined a requirement by the Department Head where:
- (a) the cost of the construction or consulting services exceeds \$100,000.00 or
 - (b) the cost of the consulting contract is less than \$100,000.00, but where the underlying construction contract exceeds \$100,000.00, or
 - (c) in any other consulting or construction contract where the Department Head and Manager determines that a performance evaluation would be appropriate.

PART XIII - PURCHASE ORDER NOT REQUIRED:

61. A purchase order is not required for the following items or class of items unless specifically requested:
- (a) Petty Cash Items;
 - (b) Training and Education;
 - (c) Refundable Employee Expenses;

- (d) Items \$5,000.00 and under as outlined in this By-law
- (e) Professional and Special Services;
- (f) Utilities;
- (g) Freight Charges and Duty
- (h) Payments in cost sharing projects (i.e. development charges)
- (i) Construction Progress Payments

PART XIV– PROVIDING ASSISTANCE

62. The Manager, provided there is no adverse impact upon the operations of the City, may lend, lease, rent or otherwise provide any vehicle, equipment or other goods as owned by the City to any federal, provincial or municipal body, ministry, agency, board, corporation or authority where such is in need because of unforeseen conditions.

PART XV - ADMINISTRATION

63. In this by-law, unless the context requires otherwise, words importing the singular shall include the plural and words importing the masculine gender, shall include the feminine.

64. Purchasing By-law 15-04 as amended of the City of Cambridge is hereby repealed.

READ A FIRST, SECOND, AND THIRD TIME

ENACTED AND PASSED, THIS 14TH DAY OF JULY, A.D. 2014

MAYOR

CLERK