

THE CORPORATION OF THE TOWN OF RICHMOND HILL

BY-LAW NO. 221-04

As Amended by By-law 86-05 and By-law 137-06

A By-law to Provide for the Procurement of Goods and Services,
and the Disposal of Surplus Goods

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THE CORPORATION OF THE TOWN OF RICHMOND HILL

BY-LAW NO. 221-04

A BY-LAW to provide for the Procurement of Goods and Services and the Disposal of Surplus Goods

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF RICHMOND HILL ENACTS AS FOLLOWS:

PART 1.0 - PURPOSE

- 1.1 The purpose of this by-law is to protect the interests of the Town, public and persons participating in the procurement process by providing a clear statement of how goods and services will be acquired. This by-law will ensure that the integrity of the procurement process will be maintained by clearly defining the circumstances for which each procurement method can be used, how each expenditure is to be authorized and by requiring a regular review to ensure that the goals and objectives of the process are being met. The policies set out in this by-law will also ensure that whenever possible competitive methods of procurement will be utilized to obtain the best value for the Town.

PART 2.0 - GOALS AND OBJECTIVES OF THE PROCUREMENT PROCESS

- 2.1 The key goals of the procurement process that the Town is committed to achieve in order to maintain the integrity of the process and protect the interests of the Town and the public are the best possible quality of goods and services at the best possible cost accountability, fairness, objectivity, efficiency, effectiveness and transparency. The goals achieved by each of the procurement processes are outlined in Appendix C.

PART 3.0 - DEFINITIONS AND INTERPRETATIONS

- 3.1 In this By-law,

- 3.1.1 "AGREEMENT" means a duly executed and legal binding contract;

- 3.1.2 "AWARD" means authorization to proceed with written legal agreement or contract to a selected compliant bidder, tenderer or proponent in accordance with the provisions of this by-law;

- 3.1.3 "BIDDER" means one who submits a response to an invitation to bid.

- 3.1.3 "CONSULTING AND PROFESSIONAL SERVICES" means architects, engineers, designers, surveyors, management and financial consultants, brokers, legal representation, education and training and any other consulting and professional services rendered to the Town for a specific project or assignment;

- 3.1.4 "COUNCIL" means the elected COUNCIL of the CORPORATION OF THE TOWN OF RICHMOND HILL;

- 3.1.5 "CLERK", "CHIEF ADMINISTRATIVE OFFICER", "TREASURER", "MANAGER OF SUPPLIES AND SERVICES", and "HEAD OF A DEPARTMENT" mean the Clerk, Chief Administrative Officer, Treasurer, Manager of Supplies and Services and Head of a Department of the Corporation of the Town of Richmond Hill, respectively;

- 3.1.6 "CONSULTANT" means person(s) with education and/or experience which uniquely qualifies him/her to perform some specialized service for the corporation of the Town of Richmond Hill;

- 3.1.7 “COMPETITIVE METHOD” means a Procurement Process where vendors are given an equal opportunity to submit bids in accordance with Town policies and procedures;
- 3.1.9 “CONTRACT” means an agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other consideration in the form of the Town’s Purchase Order, Standard Agreement or Consultant Agreement. Situations may require the use of a vendor’s standard agreement or other agreement;
- 3.1.10 “COOPERATIVE PROCUREMENT” means procurement conducted by one primary public entity on behalf of two (2) or more public procurement entities in order to obtain the benefits of volume purchases and efficiency of administrative expense;
- 3.1.11 “DEPARTMENT” means a department established under the authority of Council;
- 3.1.12 “DEPARTMENT HEAD” means a person appointed to be responsible for the operation of the DEPARTMENT;
- 3.1.13 “EMERGENCY” means a situation that has been identified by a Town employee who is able and qualified in a supervisory and/or management capacity, and has taken the responsibility to ensure the immediate procurement of goods and services essential to prevent further damage to persons or property and to restore or maintain minimum service;
- 3.1.14 “EMERGENCY PURCHASES” means a procurement process where the usual competitive procurement rules are suspended due to the prevailing EMERGENCY circumstances;
- 3.1.15 “FORMAL QUOTATION” is a competitive procurement process calling for a sealed bid based on precisely defined criteria, including standard terms and conditions, submitted in the Town's envelope and in conformance with a prescribed format at a specified time and is used where the value of the goods and services are estimated to be greater than \$50,000 but not greater than \$100,000;
- 3.1.16 “GOODS and SERVICES” includes labour, supplies, materials, equipment and services of every kind including Consulting and Professional Services;
- 3.1.17 “IDENTICAL BIDS” means a bid that agrees in all material respects inclusive of price with another bid;
- 3.1.18 “INFORMAL QUOTATION” is a competitive procurement process calling for a bid for the provision of goods and services using the Informal Request for Quotation Form and is used where the value of the goods and services are estimated to be greater than \$10,000 but not greater than \$50,000;
- 3.1.19 “INFORMAL SUBMISSION” means a submission which contains an omission or irregularity on a Tender, Proposal, Request for Quotation and Informal Quotation response which is not fully in accordance with the call and requires further clarification, before it is accepted or rejected. Reference shall be made to Schedule B for disposition of all informal submissions;
- 3.1.20 “IN HOUSE BIDS” means the process that allows for internal staff to compete with external sources of supply for goods and services to the Town;
- 3.1.21 “MANAGER OF SUPPLIES AND SERVICES” means the Manager of Supplies and Services or designate under the Treasurer, authorized by Council by this By-law to act as agent for the Town in accordance with the provisions of this By-law;
- 3.1.23 “POLICY” means a governing principle or plan which establishes the general parameters for the Town to follow in carrying out its responsibilities;
- 3.1.24 “PROCUREMENT” means the process of obtaining goods and services through purchase, lease or grants. The process includes the establishments of needs,

description of requirements, selection of procurement method, determination of evaluation criteria, selection of sources, solicitation of offers, award of contracts, financing and contract administration;

- 3.1.25 "PROCUREMENT PROCEDURES" means the written procedures supporting the application of this by-law, as approved by Council in accordance with this by-law;
- 3.1.26 "PRE-QUALIFIED BIDDER" means a supplier determined by the Supplies and Services Branch in conjunction with the user department to meet the minimum set standards of business competence, reputation, financial ability, and product quality for placement on a list for specific Tender or Proposal calls as set out in a public Request for Pre-Qualification;
- 3.1.27 "PURCHASE ORDER" means a legal written document to a successful Tenderer, Proponent or Bidder formalizing all the terms, conditions and specifications resulting from the calling of a Tender, Request for Proposal, Request for Quotation or Informal Quotation and is issued for supply of all goods and services, and provision of Consulting and Professional services;
- 3.1.28 "PURCHASING" means the act and the function of responsibility for the procurement of equipment, materials, supplies and services, except real property;
- 3.1.29 "QUALIFIED BID" means a variation of a bid or proposal from the exact requirements.
- 3.1.30 "QUOTATION" means an offer obtained from a selected person(s) to supply to, or acquire from the Town stipulated goods or services or a concession at a stated price, and terms of the transaction;
- 3.1.31 "REQUEST FOR INFORMATION" is a written request for details on a vendor's background and the goods and services it is offering. Such information may be used to invite Tender, Proposal or Quotation submissions, and will not result in a contractual purchase;
- 3.1.32 "REQUEST FOR PROPOSAL" is a competitive procurement process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution;
- 3.1.33 "REQUISITION" means an internal request to obtain goods and services and the authority to commit funds to cover the purchase, and can take the form of a manual or electronic method;
- 3.1.34 "SINGLE SOURCE" means there is more than one source in the open market but only for reasons of function or service one vendor is recommended for consideration of the particular goods and services;
- 3.1.35 "SOLE SOURCE" means there is only one source of supply of particular goods and services;
- 3.1.36 "SURPLUS GOODS" means any items no longer having any use to the Town or in excess of the needs of the Town, inclusive of but not limited to obsolete supplies, scrap materials, vehicles, etc., and have become a candidate for transfer, loan, or disposal;
- 3.1.37 "TENDER" is a competitive procurement method for obtaining competitive bids based on precisely defined requirements for which a clear or single solution exists;
- 3.1.38 "TOWN" means The Corporation of the Town of Richmond Hill.

PART 4.0 - EXPENDITURE CONTROLS

- 4.1 All purchases of goods and services shall be authorized as follows:

- 4.1.1 Where the requirement for goods and services is not greater than \$10,000 (exclusive of GST), the purchase may be made by the end user department or by the Supplies and Services Branch;
- 4.1.2 Greater than \$10,000 but not greater than \$50,000 (exclusive of GST), a purchase order shall be issued by the Manager of Supplies and Services upon receipt of an authorized Purchase Requisition, and upon the obtaining of a minimum of three (3) Informal Quotations using the Town's Informal Request for Quotation form or a Request for Proposal, where possible;
- 4.1.3 Greater than \$50,000 but not greater than \$100,000 (exclusive of GST), a purchase order shall be issued by the Manager of Supplies and Services upon receipt of an authorized Purchase Requisition, and upon the obtaining of a minimum of three (3) Formal Quotations or Request for Proposals, where possible;
- 4.1.4 Greater than \$100,000 but not greater than \$500,000 (exclusive of GST), a purchase order or required contractual agreements shall be issued by the Manager of Supplies and Services upon authorization by the CAO or designate and the Mayor or Acting Mayor after having called a Tender or Request for Proposal provided that:
 - 4.1.4.1 The award is within the approved budget and is made to the lowest compliant bidder and no lower bidder was disqualified due to irregularities or informalities;
 - 4.1.4.2 There is no current litigation between the bidder and the Town.
 - 4.1.4.3 A report is submitted semi-annually to Council to advise of the award of any contract pursuant to this authority;
- 4.1.5 Further to 4.1.4 where there exists an irregularity or informality in a Tender or Request for Proposal submission process or where the value of the award exceeds \$500,000 (exclusive of GST) the Supplies and Services Branch will prepare an analysis report of the Tender or Proposal opening, highlighting such irregularities or informalities and forward to the end user department who will prepare a Staff Report to Council for approval and award of such Tender or Proposal;
- 4.1.6 The calling of a Tender, Request for Proposal or Request for Quotation may be waived with approval of Council for the procurement of goods or services in the following described situations:
 - 4.1.6.1 The extension or reinstatement of an existing contract would prove more cost effective or beneficial to the Town in the opinion of the Manager of Supplies and Services in conjunction with the appropriate Department Head;
 - 4.1.6.2 Goods and services are available from only one source;
 - 4.1.6.3 Where for reasons of time, or due to the nature of the goods and services to be supplied, the interests of the Town would be best served by a direct purchase, or an "Invitation to Tender" to three (3) or more selected Tenderers, instead of the calling of a public Tender.
- 4.1.7 Where the need to advertise a Tender, Proposal or Quotation exists, such advertisement shall appear in at least one newspaper having circulation in the Town. Where the Pre-qualification process has been used, the need to advertise such Tenders, Proposals or Quotations shall not apply.
- 4.1.8 The Town may, in its absolute discretion, reject a Tender or Proposal submitted by the bidder if the bidder/proponent, or any officer or director of the bidder/proponent is or has been engaged, either directly or indirectly through

another corporation, in a legal action or claim against the Town, its elected or appointed officers and employees in relation to:

- 4.1.8.1 Any other contract or services; or
- 4.1.8.2 Any matter arising from the Town's exercise of its powers, duties, or functions.
- 4.1.9 In determining whether or not to reject a quotation, tender or proposal under this clause, the Town will consider whether the litigation or claim is likely to affect the bidder's ability to work with the Town, its consultants and representatives, and whether the Town's experience with the bidder/proponent indicates that the Town is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the bidder/proponent.
- 4.1.10 The Procurement process shall be carried out in accordance with the Town's, Procurement Policies and Procedures effective as amended.

PART 5.0 - PROCUREMENT BY NEGOTIATION

- 5.1 Notwithstanding any other provisions of this by-law, in consultation with the appropriate Department Head, the Manager of Supplies and Services may enter into negotiations with one or more vendors for the supply of goods and services when any of the following conditions exist:
 - 5.1.1 Due to market conditions goods and services are in short supply;
 - 5.1.2 There is only one source of the subject goods and services;
 - 5.1.3 Two or more identical acceptable bids have been received;
 - 5.1.4 Efforts at differentiating identical bids have been previously been unsuccessful and the same goods and services are required again;
 - 5.1.5 All acceptable bids exceed the amount budgeted for the goods and services;
 - 5.1.6 All bids received are not acceptable;
 - 5.1.7 The extension or reinstatement of an existing contract would be more cost effective or beneficial to the Town;
 - 5.1.8 A particular vendor is being recommended because it is more cost-effective or beneficial; or
 - 5.1.9 When authorized by Council.
- 5.2 Where the negotiations method set out in section 5.0 is used to select a vendor of goods and services, the Manager of Supplies and Services and the appropriate Department Head shall submit a report to Council prior to the award of the contract setting out the circumstances for recommending the award.

PART 6.0 - EMERGENCY PURCHASES

- 6.1 Goods and services required to address an Emergency shall be acquired by the Supplies and Services Branch and where such emergencies occur outside normal business hours such purchases may be made by an appropriate Department Head or his or her designate. The Supplies and Services Branch shall be notified of the subject Emergency Purchase at the earliest practical opportunity. A joint report by the Manager of Supplies and Services and the appropriate Department Head is to be submitted to Council, setting out the nature of the emergency and the necessity of the action taken pursuant to this clause.

PART 7.0 - DISPOSAL OF SURPLUS GOODS

- 7.1 Where any goods, equipment or salvage are designated, obsolete or unrepairable, a list of such goods equipment or salvage shall be made available to the Manager Supplies and Services so that they may be made available to other Town departments or if no longer useful for Town purposes, arrangement be made for their disposal in any way deemed to be in the best interest of the Town;
- 7.2 No Town employee or elected official shall bid on or acquire surplus goods, equipment or salvage except those disposed of by auction, and further that no employee working at or having responsibility for sending items to an auction may bid on items sold at this auction.

PART 8.0 - CO-OPERATIVE PROCUREMENT

- 8.1 The Manager of Supplies and Services in conjunction with the user Department Head may participate and enter into arrangements with area municipalities, local boards, and other public entities or authorities on a co-operative or joint basis where there are economic advantages in so doing; providing that under such arrangements:
- 8.1.1 The method of procurement used by other entities is a competitive method similar to that described in this by-law;
- 8.1.2 The awarding and reporting of such contracts is in accordance with the requirements of this by-law and the Town's Procurement Policies and Procedures.

PART 9.0 - CONSULTING AND PROFESSIONAL SERVICES

- 9.1 Notwithstanding the provisions of the by-law, the procurement of Consulting and Professional Services shall be conducted in accordance with the provisions of this section;
- 9.2 Where the requirement for Consulting and Professional Services is estimated to be not greater than \$10,000 the user department will select the Consultant or Professional Service to perform the work;
- 9.3 Where the requirement for Consulting and Professional Services is estimated to be greater than \$10,000 but not greater than \$100,000 a minimum of three written proposals are required. The appropriate Department Head in conjunction with the Supplies and Services Branch shall award the contract to the successful proponent upon the recommendation of a Selection Committee;
- 9.4 Where the requirement for Consulting and Professional Services is estimated to be greater than \$100,000 a Request for Proposal will be issued.

PART 10.0 - IN-HOUSE BIDS

- 10.1 In-house bids will not be accepted in any circumstances as part of a tendering process.

- 10.2 The provisions of Section 285.10.1 shall not apply to bids submitted by a member of Staff who has, prior to April 30, 2005 been a supplier of goods and services to the Town for a minimum of 10 successive years.

PART 11.0 - REVIEW AND EVALUATION OF BY-LAW

- 11.1 The procurement process will be reviewed and evaluated by the Treasurer in conjunction with the Manager of Supplies and Services and evaluated in response to either internal or external complaints;
- 11.2 The by-law and underlying procedures and practices will be reviewed at least once every five (5) years, or more frequently if required. Regular contact shall be maintained with other public entities to keep informed of new developments in the industry.

PART 12.0 - PROHIBITIONS

12.1 Confidentiality

No employee, or any appointed or elected official, shall divulge budget amounts or the prices paid by or quoted to the Town for goods and/or services unless Council may otherwise direct, except that the total price in the case of public tenders may be revealed, as well as any price included in public reports to Committee of the Whole and Council. Such information shall be made available according to the *Municipal Freedom of Information and Protection of Privacy Act*.

12.2 Personal Purchases

No personal purchases shall be made by the Town for elected members, or for Town Employees, unless specifically authorized by Council.

12.3 Code of Conduct

The Code of Conduct established by the Town shall apply to all staff involved in the purchasing process.

12.4 Authority to Contract

No employee or elected official shall purchase or offer to purchase on behalf of the Town except as may be provided for in this By-law.

12.5 Splitting Requirements

No requirement for the payment of goods or services including consulting or professional service received by the Town shall be divided in order to avoid any of the requirements of the By-law.

12.6 Contract Commitment

No contract shall be entered into and no expenditure shall be authorized or incurred unless Council has provided funds for such purpose in the annual budget or agreed to the provision of such funds and no expenditure shall be authorized or incurred in excess of the funds provided, subject to the provision of By-law 252-95 "A By-law to regulate the budget control process", as amended from time to time

PART 13.0 - EXEMPTION FOR DONATIONS

13.1 Notwithstanding any other provisions of this Chapter, the provisions of this Chapter shall not apply to the procurement of goods or services by donation, gift or grant, including the active solicitation by the Town for such, even where the person making the donation, gift or grant receives or will receive a form of recognition, including recognition which may or may not constitute or be perceived to constitute valuable consideration, or receives or will receive a receipt for the value of the donation, gift or grant.

PART 14.0 - CONFLICT

14.1 Where there exists a conflict between this by-law and the Procurement Policies and Procedures this by-law shall take precedence.

BY-LAW read a first time this _____ day of _____, 2004

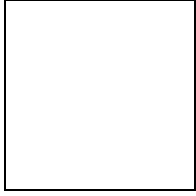
BY-LAW read a second time this _____ day of _____, 2004

Mayor

Clerk

SCHEDULE A

Goals of Procurement Methods



(*Applicable in certain situation)

SCHEDULE B

Tenders, Proposals and Quotation Irregularities

	IRREGULARITY	RESPONSE
1.	Late Bids.	Automatic rejection, not opened or read publicly.
2.	Insufficient Financial Security (No Bid Security or of an insufficient amount or is not in the form as required)	Automatic rejection.
3.	Bids not Completed in non-erasable medium and signed in ink.	Automatic rejection.
4.	Incomplete Bids (Part bids - all items not bid as required).	Automatic rejection
5.	Qualified Bids	Automatic rejection
6.	Bids received on documents other than those provided by the Town (inclusive of photocopies of the originals)	Automatic rejection
7.	Executed Agreement to Bond form not included (all signature must appear, plus Bonding company seal)	Automatic rejection
8.	Mandatory Site visits not attended as required in the documents	Automatic rejection, not opened or read publicly.
9.	Documents not signed	Automatic rejection, not read publicly.
10.	Pricing pages missing	Automatic rejection
11.	Proper Envelopes as supplied by the Town not used	Automatic rejection.
12.	Erasures, Overwriting or Strike-outs which are not initialed (using a non-erasable medium)	Automatic rejection.
13.	Documents in which all necessary Addenda have not been acknowledged or signed and included in the Town's envelope.	Automatic rejection

SCHEDULE B

SCHEDULE C

LIST OF ITEMS EXEMPT FROM THIS BY-LAW

- Conferences
- Water and Wastewater Services
- Licences
- Certificates
- Tuitions