

# TOWN OF MARKHAM

## ONTARIO



### **BY-LAW 2004-341**

### **PURCHASING BY-LAW**

This By-law is printed under and  
by authority of the Council of  
the Town of Markham

Amended by:

By-law No. 2005-1 – January 18, 2005

By-law No. 2009-55 – May 26, 2009

# BY-LAW 2004-341

A By-law Establishing Procurement, Service and  
Disposal Regulations and Policies

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**NOW THEREFORE THE COUNCIL OF THE TOWN OF MARKHAM  
ENACTS AS FOLLOWS:**

**PART I: GENERAL**

**PURPOSE**

The purpose of this By-law is to establish policies and regulations respecting the Town's procurement, disposal and administrative service requirements, including the entering into of contracts and signing authority.

**1. Definitions**

1) In this By-law,

“Administrative Procedures” means the procedures established to carry out the requirements of this By-law;

“Bid” means a formal price response to a Tender, Request for Proposal or Request for Quotation issued by the Town;

“Bidder” means any legal entity submitting a competitive bid in response to a Tender, Request for Proposal or Request for Quotation;

“Blanket Order” refers to a contract between the Town and a supplier to facilitate the procurement of repetitively used goods and services for a specified term;

“Commissioner” means a person appointed by Council with administrative responsibilities for a group of departments;

“Conflict of Interest” refers to a situation in which private interests or personal considerations may affect an employee’s, Councillor’s, or Contractor’s judgment in acting in the best interest of the Town. It includes but is not limited to using an employee’s position, confidential information or corporate time, material, or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee’s family, friends, or business associates;

“Consulting and Professional Services” means a service provided by architects, landscape architects, engineers, designers, urban designers, surveyors, planners, management and financial consultants, brokers, lawyers, and education and training and any other consulting and professional services rendered on behalf of the Town;

“Contract” means a binding agreement in writing between two or more parties;

“Cooperative Procurement” means the participation of two or more public agencies in a Tender;

“Council” means the Council of The Corporation of the Town of Markham;

“Designate” means the Town staff member who may be appointed to act on behalf of an authority named in this By-law;

“Director” means a person holding a management position of Director within a Department and includes the Treasurer, a General Manager, Fire Chief, Deputy Fire Chief, Town Solicitor, Town Architect, Chief Informational Officer, The Town Clerk and any title or position that are deemed to be equal to that of a Director as approved by Human Resources; (By-law 2009-55)

“Emergency” means a situation where the immediate purchase of goods or services is essential to prevent serious delays, damage or injury, to restore minimum service or to ensure the health and safety of any person including employees or residents of the Town of Markham;

“Estimated Costs” means the estimated full cost of the goods or services inclusive of all appropriate taxes and/or fees;

“Expression of Interest” means a focused market research tool used to determine vendor interest in a proposed procurement, where the scope or specifications of the required goods or services may not be clearly defined;

“General Committee” means the finance Standing Committee of Council and any other name given to this committee; (By-law 2009-55)

“Goods and Services” means any one or more of: supplies, personal property, construction, maintenance and service contracts including Professional and Consulting Services;

“In-house bids” means a price quotation submitted by Town staff to compete with external entities for procurement opportunities;

“Instructions to Bidders” means the instructions given to prospective bidders in a Request for Proposal, Tender, or Request for Quotation;

“Manager of Purchasing” means the Manager authorized by Council to act as agent for the Town in accordance with the provisions of this By-law;

“Personal Property” means any property not within the definition of Real Property;

“Pre-qualification Request” means a formal solicitation for details on suppliers’ backgrounds, capabilities and resources, and the goods or services they are offering. Such information shall be used to pre-qualify suppliers to be invited to submit bids or be included on a roster for future bids;

“Proposal” means a response to a Tender, Request for Proposal, Request for Quotation, Expression of Interest, or a Pre-qualification Request;

“Purchase Order” means a written offer to purchase goods and services or written acceptance where such an offer has been made on forms prescribed by the Town;

“Quotation” means a Tender, a Request for Quotation, a Request for Proposal, or Expression of Interest or any other document by which proposals or bids are solicited;

“Quote” means an offer to buy or supply specified goods or services at a fixed total price or on a unit basis, or both;

“Real Property” includes lands, buildings, tenements and any interest, estate or right or easement affecting same;

“Request for Proposal” means a formal request to provide goods or services to the Town, where it is not practical to prepare precise specifications, or where alternatives to detailed specifications will be considered, which may be subject to further negotiation. This process allows vendors to propose solutions to arrive at the end product or desired result and allows for evaluation on criteria in addition to price;

“Request for Quotation” means an informal request for prices on specific goods or services from selected vendors which are submitted in writing, or transmitted by facsimile or e-mail as specified;

“Tender” means a formal request to provide clearly specified goods or services;

“Tender Opening Committee” means the staff committee responsible for opening and recording results of publicly advertised Tenders and Request for Proposals, and shall be comprised of:

- (a) the Manager of Purchasing;
- (b) the Town Clerk;
- (c) One member of the User Department involved, if desired.

“Total Bid Price” means the total price quoted on a Tender;

“Town” means The Corporation of the Town of Markham;

“Treasurer” means the Council appointed Treasurer of the Corporation of the Town of Markham;

“User Department” means a department within The Town of Markham requiring goods and services to be purchased.

## **2. Town Procurement Principles**

- 1) The procurement principles of the Town shall be as follows:
  - (a) To operate a centralized procurement program to acquire, rent or lease the quality and quantity of goods and services required in the most cost effective and efficient manner;
  - (b) To encourage open competitive bidding on the acquisition and disposal of all goods and services where practical;
  - (c) To consider total acquisition costs, including quality, service, operating, training and maintenance costs, warranty, payment terms, disposal value, disposal costs, and availability, rather than only the lowest tendered purchase price received; and
  - (d) To not solicit in-house bids in competition with outside firms
  - (e) To ensure the efficient and timely delivery of goods and services
- 2) The Code of Purchasing Ethics published by the National Institute of Government Purchasing Inc. and the Purchasing Management Association of Canada shall apply to all Town staff involved in the purchase and disposal of goods and services.
- 3) The Town's environment initiatives as outlined by the Build Markham's Future Together (BMFT) strategy plan as approved by Council. (By-law 2009-55)
- 4) The Town of Markham Accessibility Plan developed in 2003 focuses on accessibility issues and the development of strategic actions to remove, where possible, and prevent barriers to access for people with disabilities. *The Ontarians with Disabilities Act*, S.O. 2001, c. 32 and the Town of Markham Accessibility Plan require that, when procuring goods and services, the Town is to have regard to the accessibility for persons with disabilities to the goods and services. As such, the Town is committed to accessibility principles.
- 5) The *Discriminatory Business Practices Act*, R.S.O. 1990, c. D.12 has been established to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex, or geographical location of persons employed or engaging in business. Therefore, granting preference to local suppliers to supply goods and services to the Town shall not be undertaken.
- 6) Total bid prices will only be made available if disclosed during a Tender Opening Committee meeting or if provided to Council in a public report. Submission of proposals as the result of a Tender, Request for Proposal, Request for Quotation, Expression of Interest, or Pre-qualification Request are subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

### 3. General Conditions

- 1) The Purchasing Department, in consultation with the Director responsible for the User Department, may place a vendor's name on a list of disqualified suppliers for a period of two years on the basis of documented poor performance, non-performance, or conflict of interest. This information may be accumulated from

within the Town or through reference checks. A written notice of the decision will be provided to the vendor by the Purchasing Department. From and after the delivery of such notice, the disqualified supplier shall not be eligible to respond to any Quotation and shall not be eligible to provide goods or services to the Town for so long as the supplier remains on the list of disqualified suppliers. After the two year period referred to above, disqualified bidders, who are otherwise in good standing and eligible as bidders, may request that their name be removed from the list. Removal of names from the list will be at the sole discretion of the Town.

- 2) Where practical when procuring goods and services, specifications or terms of reference should be included in the Quotation that are detailed but not brand specific to leave room for bidders to provide alternatives in the event an equal or better product or method is available.
- 3) Notwithstanding Part I subsection 3(2), the Town will, whenever possible, standardize the procurement of goods and services to permit:
  - (a) Reduced number of goods and services required;
  - (b) Economies of scale;
  - (c) Reduced handling, training and storage cost;
  - (d) Minimized maintenance costs;
  - (e) Cooperative procurement activities; and
  - (f) Reduced overall cost.
- 4) At the discretion of the Manager of Purchasing and the User Department, invitations to Tender, Requests for Proposal, Pre-qualification Request and Expressions of Interest may be sent to potential bidders to ensure the best possible response.
- 5) When, in the opinion of the Chief Administrative Officer, it would be in the best interests of the Town, the Town may participate with other levels of government or their agencies, or other public authorities in Cooperative Procurement.
- 6) Vendors or potential vendors shall not be requested to expend time, money or effort on design or in developing specifications or otherwise to help define a requirement beyond the normal level of service expected from vendors. When such services are required:
  - (a) the Purchasing Department must be advised;
  - (b) the vendor will be considered a consultant and will not be permitted to make an offer for the supply of the goods and services;
  - (c) a fee shall be paid; and
  - (d) the detailed specification shall become the property of the Town of Markham and can be used in obtaining competitive bids
- 7) Despite any term or condition to the contrary in a Quotation, the Town reserves the right to require a successful bidder to enter into a contract in a form satisfactory to the Town Solicitor.

- 8) No contract or purchase shall be divided into one or more contracts or purchases to avoid the requirements of this By-law.
- 9) No goods shall be received or services commenced without the use of a purchasing card, or the issuance of a Goods and Service Order or Purchase Order or other contract.
- 10) Where a series of contracts which pertain to the same subject matter with the same supplier, customer or consultant in any 12 month period combine to equal any of the monetary limits referred to in the section Contract Award Authority, the series of contracts shall be deemed to be a single contract for the purpose of this By-law.
- 11) Routine and repetitive goods and services will be combined and a Blanket Order issued according to the thresholds of the Contract Award Authority.
- 12) The Commissioner for the User Department, together with the Director of Human Resources, shall have delegated authority to execute a contract that pertains to the hiring of full or part time staff.
- 13) This By-law does not apply to the sale, acquisition or disposal of Real Property, except in accordance with the provisions of Part II section 7 sub-section 3(g).
- 14) No employee or member of Council shall purchase or offer to purchase, on behalf of the Town, any goods or services except in accordance with this By-law.
- 15) Where the Town is pursuing a claim against a vendor in contract, tort or negligence or where a vendor is pursuing a similar claim against the Town, the vendor shall not be eligible to respond to any quotation, unless the Chief Administrative Officer determines that it is in the best interests of the Town to permit the vendor to respond.
- 16) It is mandatory for any employee or Council member to disclose to the Town of any conflict of Interest relating to Family members (Relative) who may provide goods or services to the Town. Refer to the Town of Markham's Human Resources staffing policy no. 505 for Family member (Relative) definition.  
(By-law 2009-55)

#### **4. Administrative Procedures**

- 1) The Purchasing Department shall have the authority to issue all Purchase Orders for goods and services, non-standard items, consulting and professional services provided that proper authorization has been obtained from Council, General Committee, Commissioner and/or the appropriate Director, as applicable. Where such Purchase Order does not form part of the Contract, it shall so state and may be used for internal control purposes only.
- 2) It is the responsibility of all Town employees to ensure that all requirements of this By-law are complied with.

- 3) The Treasurer and Manager of Purchasing shall have the authority to approve additional procedures to implement this By-law, including forms and Purchasing Department templates.
- 4) No Town employee, or member of Council may bid on a Quotation or sell or provide goods or services to the Town outside of their employment with the Town.
- 5) No purchases for personal use or consumption shall be made by the Town for members of Council or for Town employees except through programs which may, from time to time, be approved by Council.

## **PART II: METHODS OF PROCUREMENT**

### **1. Tenders (\$100,000 or greater)**

- 1) Unless vendors have been pre-qualified, all Tenders for goods and services over \$100,000 in value will be advertised in a newspaper of general circulation or by electronic media or both.
- 2) All Tenders for goods and services shall be issued by the Purchasing Department through the Contact Centre. Sealed bids will be received and stamped by the Town Clerk, and opened in public by the Tender Opening Committee at the time appointed in the Instructions to Bidders. Tenders received and stamped by the Clerk's Department after the stated closing time will be disqualified and returned unopened to the bidder.
- 3) After all Tenders have been opened, read out and bid amounts entered on the Summary of Bidders Sheet, the Summary of Bidders Sheet shall be initialed by all attending members of the Tendering Opening Committee. Tenders that do not demonstrate compliance with the necessary bonding requirements will be disqualified and not read out.
- 4) All bid responses from Tenders will be analyzed and tabulated by the Purchasing Department and the User Department and the results may be submitted to the User Department for further analysis. Tender awards may be made provided that all Tender specifications are met and the award is made only to the lowest price and qualified bidder.
- 5) (Deleted – Bylaw 2009-55)
- 6) The Town reserves the right not to accept the lowest or any bid submitted, if such action is deemed to be in the best interests of the Town.
- 7) The Town shall not be required to award or accept a Tender:

- (a) where only one bid has been received as the result of a Tender;
  - (b) where the lowest bid meeting specifications or Tender terms and conditions substantially exceeds the budget or estimated cost of the goods;
  - (c) when all bids received fail to comply with the specifications or Tender terms and conditions and it is impractical to recall Tenders; or
  - (d) where two or more identical lowest bids have been received no award will be made; the project will be re-evaluated and re-tendered as required.
- 8) The Town reserves the right to amend specifications or terms and conditions or both included in a Tender up to and including after award of the Tender and execution of a contract.

## **2. Requests for Proposals (\$100,000 or greater)**

- 1) Unless vendors have been pre-qualified, all Requests for Proposals for goods and services over \$100,000 in value will be advertised in a newspaper of general circulation or by electronic media or both.
- 2) Requests for Proposals may be called, instead of Tenders, when the requirements or services cannot be clearly specified, or when the requirements or services are non-standard in nature. The provisions of the Tender process in Part II section 1 of this By-law shall apply except that, proposals shall be opened for recording of bids but prices will not be read out.
- 3) Proposals will be evaluated by the Purchasing Department and the User Department based on predetermined criteria. The criteria shall be determined by the User Department and the Purchasing Department prior to the issuance of the Quotation. The criteria may include but are not limited to product offering, past performance, quality of work or service, experience, reference checks and financial viability. Request for Proposals awards can be made provided that all specifications are met and the award is made to the highest ranking bidder based on the predetermined criteria.
- 4) As a result of negotiations with one or more bidders, amendments to any or all of the specifications, contract terms and prices made be made by staff before or after the award of quotation or execution of the contract.

## **3. Request for Quotations (between \$5,001 and \$24,999)**

- 1) The Town may issue Requests for Quotations for the acquisition of goods and services estimated between \$5,001 and \$24,999 in value.

- 2) The User Department will solicit suppliers and obtain a minimum of three written quotations. Quotations will be received, opened, recorded and filed by the User Department. Awards will be made after analysis of the proposals by the User Department. The User Department shall provide the Purchasing Department with an electronic requisition or Goods and Service Order. A Purchase Order is required to complete any such transaction.
- 3) (Deleted – By-law 2009-55)
- 4) As a result of negotiations with one or more bidders, amendments to any or all of the specifications, contract terms and prices made be made by staff before or after the award of quotation or execution of the contract.
- 5) Notwithstanding the requirement in clause 2 above for a minimum of three quotations, where the value of Consulting and Professional Services is estimated to be less than \$25,000, the appropriate Director may award a contract for the services upon such terms and conditions as deemed appropriate.

(By-law 2005-1 and 2009-55)

#### **4. Request for Quotations (between \$25,000 and \$99,999)**

- 1) The Town may issue Requests for Quotations for the acquisition of goods and services estimated between \$25,001 and \$99,999 in value.
- 2) The User Department shall provide the Purchasing Department with a request containing the relevant specifications and approval authority by Goods and Service Order or electronic requisition.
- 3) The Purchasing Department, with input from the User Department will solicit suppliers and obtain a minimum of three written quotations. Quotations will be received, opened, recorded and filed by the Purchasing Department. Awards will be made after analysis of the quotations by the Purchasing Department with input from the User Department.
- 4) (Deleted – By-law 2009-55)
- 5) As a result of negotiations with one or more bidders, amendments to any or all of the specifications, contract terms and prices made be made by staff before or after the award of quotation or execution of the contract.

#### **5. Expression of Interest**

- 1) All Expressions of Interest for the Town will be advertised in any of: a newspaper of general circulation or by electronic media or by solicitation.
- 2) As a result of responses to Expressions of Interest, the Town may redefine the required product or service or compile a list of pre-qualified suppliers according to criteria that may include but are not limited to product offering, past performance, quality of work or service, reference checks and financial viability.
- 3) Proposals shall be reviewed by the Purchasing Department and the User Department and may result in subsequent Requests for Proposal, Tenders or Requests for Quotation being issued.
- 4) The Expression of Interest may result in a pre-qualified supplier list in which case approval of the Commissioner of Corporate Services is required.
- 5) Based on responses received from the Expression of Interest, Markham will select a proponent(s) who submits responses meeting the requirements as listed in this EOI. Depending on the responses received, the Town will consider two options. Option 1 is to issue a request for proposal (RFP) to invite the preferred proponents to submit a proposal to the Town. Evaluation will be based on pre-established criteria included in the RFP.

Option 2 is to negotiate with one preferred proponent to establish a contract for this project. If such negotiations do not lead to an agreement, Markham may proceed with negotiations with another proponent or issue an RFP as per option 1. Contract shall mean an agreement between the successful bidder and the Town of Markham.

## **6. Pre-qualification Request**

- 1) A pre-qualification request is used to ascertain qualified suppliers who may be interested in submitting a bid on a product or service.
- 2) The Town may compile a list of qualified suppliers whenever it is desirable to pre-qualify suppliers according to established criteria. The criteria may include but are not limited to product offering, past performance, quality of work or service, reference checks and financial viability.
- 3) In order to compile a list of qualified suppliers, the Purchasing Department with input from the User Department shall invite suppliers to apply for inclusion in such list by advertisement in a newspaper of general circulation or by electronic media or both.
- 4) Submissions shall be reviewed by the Purchasing Department and the User Department and a list of qualified suppliers is then compiled.
- 5) The list of pre-qualified suppliers may be used for one particular purchase or be included on a roster to be used for future purchases. If the pre-qualification request

is created with the intent of creating a roster it must be clearly defined in the request document.

- 6) Where a pre-qualification process is being recommended, approval by the Commissioner of Corporate Services is required before proceeding.
- 7) The Purchasing Department shall review the roster of pre-qualified suppliers every two years for continued eligibility.
- 8) Suppliers wishing to be included on an existing roster may issue a proposal to the Purchasing Department. The submission shall be reviewed by the Purchasing Department and User Department using the same criteria used in the original Pre-qualification Request.

## 7. Non-Competitive Procurement

- 1) When any of the following conditions apply, the Treasurer and/or the Manager of Purchasing may, in consultation with the appropriate Director, negotiate a contract for the supply of goods and services without a competitive process, which shall be submitted to the Commissioner or Chief Administrative Officer for approval. Final approval will be in accordance with the Non-Competitive Approval Authority outlined below:

### Non-Competitive Approval Authority

<u>Contract Value</u>	<u>Authority</u>
>\$5k and <\$50k	Commissioner
>\$50k and <\$350k	CAO
>\$350k	Council

- (a) when, the Manager of Purchasing and the appropriate Director determine that goods are in short supply due to market conditions;
- (b) where there is only one source of supply for the goods to be purchased;
- (c) when the extension of an existing contract would prove more cost-effective or beneficial;
- (d) where a project is privately funded but is administered by the Town;
- (e) where the Town is acquiring specialized vehicles or equipment, such as firefighting vehicles or equipment or buses, in which case the sources of supply may be identified based on technical specifications prepared by the User Department staff. The Manager of Purchasing may negotiate purchases based on such specifications in consultation with the User Department;

- (f) where, for any reason, a call for Tenders does not result in the successful award of a Tender;
  - (g) where it is in the Town's best interest not to solicit a competitive bid.
  - (h) where it necessary or in the best interests of the Town to acquire non-standard items or Consulting and Professional Services from a preferred supplier or from a supplier who has a proven track record with the Town in terms of pricing, quality and service.
- 2) Tenders, Requests for Proposal and Requests for Quotation may not be required for goods and services to be provided by any of the following:
- (a) Hydro Electric Corporations;
  - (b) Utilities;
  - (c) Provincial and federal government agencies or Crown corporations;
  - (d) Municipalities and special purpose bodies within the Town when similar goods or services are not available from any other source; and
  - (e) Toronto and Region Conservation Authority (TRCA).

Final approval will be in accordance with the Non-Competitive Approval Authority outlined below:

Non-Competitive Approval Authority

<u>Contract Value</u>	<u>Authority</u>
>\$5k and <\$350k	Director (Engineering) or Commissioner (Development Services) (Relocated only) (a & b)
>\$5k and <\$350k	CAO (a – e)
>\$350k	Council (a – e) (By-law 2009-55)

- 3) Notwithstanding any other provision of this By-law, the following provisions shall apply in case of an emergency:
- (a) wherever feasible, the Manager of Purchasing, upon the recommendation of the Director of the User Department, shall secure by the most open procedure at the lowest obtainable price and consistent with service requirements, any goods or services required up to the amount of \$350,000;
  - (b) in the absence of the Manager of Purchasing, the Commissioner and Director of the User Department may purchase goods and services and obtain a purchase order number from the Purchasing Department the following business day.
  - (c) when an emergency purchase has been made and the amount of the purchase exceeds \$25,000 but is less than \$350,000, the Commissioner of Corporate Services and the Chief Administrative Officer shall be advised forthwith in writing by the User Department.

- (d) any procurement of goods and services with a value over \$350,000 shall be pre-approved by the Chief Administrative Officer.
- (e) if an Emergency Purchase has been made and the amount of the purchase exceeds \$350,000, a written report shall be submitted by the User Department's Director to the next meeting of General Committee, explaining the action taken and reason(s) therefore.
- (f) when real property is purchased under emergency conditions, the purchase shall be authorized by the Chief Administrative Officer.

### **PART III: CONTRACT AWARD AUTHORITY**

For the purpose of this section, a contract shall be defined as any contract or agreement expressed in writing, including a contract arising out of the acceptance of a Tender, Request for Proposal, or Request for Quotation and will include a purchase order if such contract exceeds \$5,000. All monetary limits expressed include PST where applicable and exclude GST.

#### **1. Amount not exceeding \$99,999**

##### **(a) Amount not exceeding \$5,000**

Purchase orders, corporate purchase cards or Goods and Service Orders may be used by Departments for purchases of goods and services with a value less than \$5,000. The procurement of goods and services under \$5,000 may be made without the use of a competitive process. The User Department Commissioner or his delegates shall award purchases of goods and services under \$5,000.

##### **(b) Amount exceeding \$5,000 but less than \$25,000**

A purchase order will be used to complete such transactions. If the User Department originates the quotation process, that Department is responsible for keeping the quotes on file. Where the amount of the contract contains a maximum upset limit of \$24,999 or less, or is estimated or expressed to involve an expenditure of \$24,999 or less within a twelve month period, the Manager of the User Department shall have delegated authority to award and execute such contract on behalf of the Town. (By-law 2009-55)

##### **(c) \$25,000 or greater but less than \$100,000**

A purchase order will be used to complete such transactions. Where the amount of the contract contains a maximum upset limit of \$99,999 or less, or is estimated or expressed to involve an expenditure of \$99,999 or less within a 12 month period, the Manager of Purchasing, with the approval of the Director or

Commissioner of the User Department, shall have the authority to award a contract as per award authority criteria in Part VIII and Appendix A.  
(By-law 2009-55)

## **2. \$100,000 or greater but less than \$350,000**

- (a) Where the amount of the contract contains a maximum upset limit between \$100,000 and \$349,999, or is estimated or expressed to involve an expenditure of between \$100,000 and \$349,999 within any twelve month period, the award shall be approved by the Commissioner of the User Department or Chief Administrative Officer as per award authority criteria in Part VII and Appendix A.  
(By-law 2009-55)
- (b) Award reports shall be completed and properly authorized and kept on file within the Purchasing Department. Purchasing Department staff will issue a purchase order upon receipt of the approved award. The Purchasing Department will be responsible for issuing all letters of award and rejection.

## **3. \$350,000 or Over**

Where the amount of the contract contains a maximum upset limit of \$350,000 or more, or is estimated or expressed to involve an expenditure of \$350,000 or more within any twelve month period, the said contract shall be executed by the Chief Administration Officer or the Mayor and Clerk, as authorized by the General Committee and Council as per award authority criteria in Part VII and Appendix A.  
(By-law 2009-55)

## **4. Reporting Requirements**

The Treasurer, on a monthly basis, will advise the General Committee of all Tenders, Requests for Proposals and Requests for Quotation awarded by staff that are greater than \$50,000.  
(By-law 2009-55)

## **5. Miscellaneous**

- (a) Where a procured item generates revenue, the value of the item, for the purposes of the thresholds in “Part III Contract Award Authority”, shall be determined by the total acquisition cost exclusive of the potential revenue generation.
- (b) All procurement activities shall be governed by the “Expenditure Control Policy” as amended by the Chief Administrative Officer from time to time.
  - (c) Tender Award Process – Election Year and/or Recess Periods
  - (i) Council Recess Periods

During any period of more than 21 days in which there is no scheduled Council meeting, the Chief Administrative Officer and Treasurer shall have the authority to award contracts that can not, in the opinion of the Chief Administrative Officer, be delayed until the next regular meetings of the General Committee and Council. A written report shall be submitted by the Treasurer at the next meeting of the General Committee detailing all awards made during any recess period.

- (d) A summary of the approvals required, quotation and contract types and the responsibility for sourcing quotes for various contract values can be found in Appendix A, Contract Award Authority.

#### **PART IV: DEPOSIT REQUIREMENT**

1. Where and as required, each bidder shall provide a bid deposit by submitting cash, certified cheque, letter of credit, or a bid bond in the amount as set out in the Tender or Request for Proposal documents.
2. Bid deposits will be held by the Town Clerk to ensure that the bidder will enter into a formal contract with the Town and when the bidder does so, the bid deposit maybe picked up by the vendor or returned by registered mail. The bid deposit of all bidders, except those of the two (2) lowest bidders, shall be returned by the Town Clerk within fifteen (15) working days after the Tender opening date. The bid deposits of the two (2) lowest bidders will be returned by the Town Clerk within ten (10) working days after the award of the contract, unless the User Department or the Purchasing Department advises that the bid deposit will be retained for a longer period of time.

#### **PART V: DISPOSAL OF PERSONAL PROPERTY**

1. Any personal property belonging to the Town and declared surplus by the Director responsible for the User Department shall be disposed of only by means of public auction, Tender, quotation or donation after approval has been received from the Chief Administrative Officer or the Treasurer, provided that any usable equipment or material has first been offered to other Town departments.
2. The sale of any personal property by Tender shall be carried out by the Manager of Purchasing in consultation with the Director of the User Department. Where it is estimated that the value of the personal property exceeds \$100,000, a report recommending the sale shall be submitted to General Committee for approval.
3. If it is determined that a higher return, net of disposal costs, can be achieved by sale of obsolete or surplus goods to the original vendor or vendors in that line of

business, the Manager of Purchasing shall sell such goods at the highest return after first obtaining the approval of the Chief Administrative Officer or Treasurer.

4. A reserve price may be established, and:
  - (a) in case of disposal by Tender, such reserve price shall be published and disclosed at the time of opening;
  - (b) in the case of public auction or quotation, such reserve price shall be used as an internal estimate and not disclosed.
5. No employee or member of Council shall bid on the sale of goods except those sold by public auction.
6. No employee of the Town working at an auction of Town property, or having responsibility for sending items to such auction, may bid on any items at such auction.
7. Where personal property has been declared surplus by the User Department, and has been offered to other User Departments without acceptance and the Commissioner of the User Department proposes to donate the items to a community interest or not-for-profit organization, approval shall be obtained from the Chief Administrative Officer or Treasurer prior to such donation.

## **PART VI: GENERAL**

1. This By-law will be reviewed every 5 years to evaluate its effectiveness.

### **Interpretation**

2. Words imparting the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the reverse.
3. A word interpreted in the singular number has a corresponding meaning when used in the plural.
4. In the absence of, or where authorized by, the Manager of Purchasing, a buyer appointed in the Purchasing Department will act as the authorized designate.
5. The Treasurer or Designate may assume at any time any of the authorities, responsibilities and duties imposed upon the Manager of Purchasing under this By-law.

6. The responsibility of any employee referred to in this By-law may be temporarily assumed by their designate.

#### **PART VII: CONTRACT AWARD AUTHORITY CRITERIA (By-law 2009-55)**

The following criteria must be met to enable award of contracts by staff without limits.

- The award is to the lowest priced bidder
- The expenses relating to the goods/ services being procured is included in the budget (Operating/Capital)
- The award of the contract is within the approved budget
- The award results from the normal tendering process of the Town (i.e. open bidding through advertisements that meet transparency and enables open participation)
- The term of the contract is for a maximum of 4 years
- There are no litigation between the successful bidder and the Town at the time of award
- There are no bidder protests and/or disqualified bidders at the time of contract award

#### **PART VIII: TERMINATION AUTHORITY (By-law 2009-55)**

Contracts awarded by the Town may be terminated by the Purchasing Department at the request of the User Department for non satisfactory performance of a contractor or any other reason that deem the contract to be terminated.

Purchasing shall obtain first approval from the legal department before terminating the final contract. The final approval to terminate shall be as follows:

<u>Contract (Award) Approval</u>	<u>Termination Approval</u>
>\$5k - <\$25	Director
>\$25 - <\$100	Commissioner
>\$100 - <\$350	CAO
>\$350	Council

Notwithstanding the above limits, Council approval will be required based on terms and conditions which are required based on legal requirements.

#### **PART IX: CONTRACT EXECUTION AUTHORITY (By-law 2009-55)**

The Commissioner of the User Department and/or the Manager of Purchasing shall have the delegated authority to execute contracts arising out of the acceptance of a Tender, Request for Proposal or Request for Quotation on behalf of the Town for a contractual value <\$350,000

The Mayor and Clerk, as authorized by General Committee and Council shall have the delegated authority to execute contracts arising out of the acceptance of a Tender, Request for Proposal or Request for Quotation on behalf of the Town for a contractual value >\$350,000

**Repeal**

7. Town of Markham By-law No 143-2000, as amended, is hereby repealed in its entirety.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
14<sup>TH</sup> DAY OF DECEMBER, 2004.

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SHEILA BIRRELL, TOWN CLERK

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DON COUSENS, MAYOR

**APPENDIX A: CONTRACT AWARD AUTHORITIES (By-law 2009-55)**

Dollar Threshold	-Quotation Type - Contract Type	Quote Source	Approval Authority Within Criteria	Approval Authority Outside Criteria
\$5,000 or less	-No formal quote required -Purchasing Card, GSO or Purchase Order	-Approved by the User Department	-Approved by the User Department	-Approved by the User Department
> \$5,000 - < \$25,000	-Three Request for Quotations -Purchase Order	-User Department or Purchasing Department	Manager	Manager
>\$25,000 – < \$100,000	-Three Request for Quotations -Purchase Order	-Purchasing Department	Director	Director up to \$50k Commissioner \$50 - \$100k
\$100,000 or greater but less than \$350,000	-Tender or Request for Proposal -Purchase Order	-Purchasing Department	Commissioner	CAO
\$350,000 or greater	-Tender or Request for Proposal -Purchase Order	-Purchasing Department	CAO	Council

Notwithstanding the above, Request for Proposals (RFP) will continue to be approved by CAO up to \$350,000 and Council for values > \$350,000.

Request for Proposals (RFP) approval levels shall be per the Approval Authority outside Criteria.

(By-law 2009-55)