

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 02-2016

A BY-LAW TO DEFINE THE PROCUREMENT POLICIES AND PROCEDURES FOR THE REGIONAL MUNICIPALITY OF NIAGARA, AND TO REPEAL BY-LAW 95-2014

WHEREAS Section 270(1)(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, requires a municipality to adopt policies with respect to its purchasing of goods and services;

AND WHEREAS The Council of The Regional Municipality of Niagara has deemed it desirable to set out its policies with respect to the Purchase or Disposal of Goods and/or Services in this By-law;

Now therefore, The Council of The Regional Municipality of Niagara enacts as follows:

PURPOSES, GOALS AND OBJECTIVES OF THIS BY-LAW

1. The purposes, goals and objectives of this By-law and of each of the methods of Purchasing authorized herein are:
 - (a) to encourage competitive bidding;
 - (b) to ensure objectivity and integrity in the Purchasing process;
 - (c) to ensure fairness between bidders;
 - (d) to maximize savings for taxpayers;
 - (e) to offer a variety of Purchasing methods, and to use the most appropriate method depending on the particular circumstances of the acquisition;
 - (f) to the extent possible, to ensure openness, accountability and transparency while protecting the best interests of the Corporation and the taxpayers of The Regional Municipality of Niagara;
 - (g) to obtain the best value for the Corporation when procuring Goods and/or Services;

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019;
Minute Item 7.6

As amended by By-law No. 2019-06

- (h) to avoid real and perceived conflicts between the interests of the Corporation and those of the Corporation's employees and elected officials and to ensure compliance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50, as amended;
- (i) to encourage the Purchase of Goods and/or Services with due regard to the preservation of the natural environment;
- (j) to promote, and incorporate wherever possible in Purchasing activities of the Corporation, the requirements of the *Ontarians with Disabilities Act, 2001*, S.O. 2001, c. 32, as amended;
- (k) to adhere to the code of ethics of the National Institute of Government Purchasing and the **Supply Chain** Management Association of Canada; and
- (l) to maintain timely and relevant policies and procedures.

DEFINITIONS

2. (a) In this By-law,

"Associate Director" means an employee of the Corporation holding the position of associate director;

"Award" means authorization to proceed with the Purchase, sale or Disposal of Goods and/or Services from or to a chosen Supplier;

"Bid" means an offer or submission from a Supplier in response to a Bid Solicitation which is subject to acceptance or rejection by the Corporation;

"Bid Deposit" means the form of security required by the terms and conditions of Bid Solicitations to guarantee that the successful Supplier enters into a Contract with the Corporation, as required by Section 26 of this By-law;

"Bid Document Form" or "BDF" means a form completed by Departments prior to the onset of a formal bid process which assists them in identifying relevant information such as specifications, provision, plans and supplemental general conditions which are crucial to the Purchase. Procurement utilizes this information as a starting point in the development of the Bid Solicitation and may consult with the project manager to clarify details and provide guidance for the purpose of finalizing the Bid Solicitation;

“Bid Solicitation” means a formal request for Bids including an Informal Quotation, Request for Quotation, Request for Pre-Qualification, Request for Tender, Request for Proposal, ***Negotiated Request for Proposal***, or Request for Expression of Interest;

“Bidding System” means the Niagara Region’s online web-based solution for issuing Bid Solicitations and/or receiving online Bids and posting results of Bid Solicitations;

“Budget” means the budget or portion of the budget approved by Council;

“CETA” means the Comprehensive Economic and Trade Agreement, (Chapter Nineteen: Government Procurement) effective September 21, 2017 and as may be updated from time to time;

“CFTA” means the Canadian Free Trade Agreement set out for Government Procurement, (Chapter Five) effective July 1, 2017 and as may be updated from time to time;

“Chair” means the Chair of the Corporation or his or her designate;

“Chief Administrative Officer” or “CAO” means the Chief Administrative Officer of the Corporation, his or her Designate or any successor position thereto;

“Clerk” means the Clerk of the Corporation or his or her designate;

“Commissioner” means the Commissioner of a Department, his or her Designate or any successor position thereto;

“Compliant Bid” means a Bid that meets the terms and conditions of the Bid Solicitation and this By-law;

“Conflict of Interest” means:

a situation or circumstance, real or perceived, which could give a Supplier an unfair advantage during a procurement process or compromise the ability of the Supplier to perform its obligations under its Contract; and/or

a situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Corporation is, or can be reasonably be perceived to be, in conflict with the interests of the Corporation, and includes, but is not limited to:

- (i) the giving or receiving of a direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any person or business that offers Goods and/or Services to the Corporation;
- (ii) a direct or indirect interest in any business that provides Goods and/or Services to the Corporation;
- (iii) a conflict of interest as defined in the *Municipal Conflict of Interest Act*; or
- (iv) a conflict of interest as defined in the Corporation's Code of Ethics/Conflict of Interest Policy **#C-A-007**, as may be amended;

"Construction" means a construction, reconstruction, demolition, repair or renovation of a building, structure or other engineering or architectural work and includes site preparation, excavation, drilling, soil or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the construction, and the installation and repair of fixtures of a building, structure or other engineering or architectural work;

"Contract" means a binding agreement between two or more parties that creates an obligation to provide or sell goods or perform services;

"Corporation" means The Regional Municipality of Niagara;

"Council" means The Council of The Regional Municipality of Niagara;

"Department" means any Department of the Corporation including any division within a Department;

"Department Commissioner" means the Commissioner of the Department making the Purchase ***and for the purposes of this by-law shall include the Medical Officer of Health or their designate or any successor position thereto;***

“Department Representative” means a position authorized in writing by the CAO or Department Commissioner for the Purchase and Disposal of Goods and/or Services up to the value of their prescribed signing authority **or their designate** and which written authorization must be filed with the Director of Procurement and Strategic Acquisitions;

“Designate” means a person authorized in writing to act on behalf of another during his or her absence, which written authorization has been filed with the Director of Procurement and Strategic Acquisitions; only a person holding a position no lower than one level below in the Corporation’s reporting structure may be authorized to act as a Designate;

“Director” means the director of a division within a Department, his or her Designate or any successor position thereto;

“Director of Legal and Court Services” means the Director of Legal and Court Services of the Corporation, his or her Designate or any successor position thereto;

“Disability” or “Disabilities” shall have the same meaning as set out in the *Ontarians with Disabilities Act, 2001*, or any successor legislation thereto;

“Disposal” means the selling, trading, assignment and/or scrapping of Surplus Assets;

“Fair Market Value” means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length who are fully informed and not under any compulsion to transact;

“Fairness Monitor” means an independent third party to observe all or part of a Bid Solicitation process and provide related feedback on fairness issues;

“Formal Bid Process” means the process for receipt of Bids, as outlined in Section 21;

“Goods” means, in relation to procurement, moveable property (including the costs of installing, operating, maintaining or manufacturing such moveable property), including raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a general construction contract;

“In House Bid” means a Bid made by one or more employees of the Corporation, which process has been authorized by Council, submitted in response to a Bid Solicitation, where the provision of the Goods and/or Services will be provided by the employees of the Corporation;

“Lobbying” means the advocacy of an interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process including seeking to influence the outcome of the Bid Solicitation process or subsequent Award.

“Lowest Compliant Bid” means the Compliant Bid that would provide the Corporation with the desired Goods and/or Services at the lowest cost;

“Manager” means an employee of the Corporation holding the position of manager;

“Negotiated Request for Proposal” or “NRFP” means a non-binding flexible format public request for proposal by the Corporation made in accordance with Section 16 of this by-law, seeking proposals to supply Goods and/or Services which may or may not result in an award by the Corporation;

“Negotiation” means a purchasing method whereby the Corporation may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract;

“Pre and Post Award Bid Dispute” means a written objection provided to Procurement and Strategic Acquisitions from a Supplier with respect to a Bid Solicitation giving specific reasons for the objection;

“Procurement and Strategic Acquisitions” means that part of the ***Enterprise Resource Management Services*** Department and any person with the delegated authority under Section 4. (d) of this By-law, responsible for the Purchase and Disposal of all Goods and/or Services for the Corporation and for the administration of this By-law;

“Professional Services” means those services requiring the skills of professionals for a defined service requirement including but not limited to,

- (i) architects, engineers, designers, surveyors, geoscientists, project managers, financial consultants, auditors, accountants, ***lawyers***, and medical professionals such as doctors ***and*** dentists;
- (ii) firms or individuals having specialized competence in environmental, planning or similar disciplines; and,

(iii) software consultants and any other persons providing similar services;

“Purchase” means to acquire Goods and Services by purchase, rental, lease or trade, including Construction;

“Purchase Order” means a written confirmation of the Purchase of Goods and/or Services at a specific cost. ;

“Purchase Requisition” means a request for Goods and/or Services for which the Budget has been approved, prepared by a Department and sent to the Procurement and Strategic Acquisitions **Division**;

“Purchasing” means the process for obtaining Goods and/or Services;

“Quotation” means a binding statement of price, terms of sale and description of Goods and/or Services offered by a Supplier;

“Request for Expression of Interest” or “RFEI” means a public request made by the Corporation seeking responses from potential Suppliers for the purposes of compiling a list of Suppliers who may be interested in providing Goods and/or Services to the Corporation from time to time. Receipt of an expression of interest by the Corporation does not create any obligation between the potential Supplier and the Corporation, but may be a precondition to qualifying for subsequent Bid Solicitations issued by the Corporation;

“Request for Pre-Qualification” or “RFPQ” means a public request by the Corporation ***made in accordance with Section 10 of this by-law*** seeking submissions outlining the experience, financial strength, education, background and significant personnel of potential Suppliers who may, from time to time, qualify to supply Goods and/or Services to the Corporation;

“Request for Proposal” or “RFP” means a public request for proposals by the Corporation made in accordance with Section 16 of this By-law, seeking proposals to supply Goods and/or Services which may or may not result in an Award by the Corporation;

“Request for Quotation” or “RFQ” means a request for Quotations by the Corporation for the provision of Goods and/or Services made in accordance with Section 14 of this By-law;

“Request for Tender” or “RFT” means a public request for Tenders by the Corporation made in accordance with Section 15 of this By-law;

“Services” means intangible products that do not have a physical presence and includes Professional Services. No transfer of possession or ownership takes place when services are sold, and they: (1) cannot be stored or transported; (2) are instantly perishable; and (3) come into existence at the time they are bought and consumed;

“Single Source” means the non-competitive procurement process to acquire Goods and/or Services from a specific supplier even though there may be more than one Supplier capable of delivery of the same Goods and/or Services;

“Sole Source” means there is only one source of the Goods and/or Services that meets the requirements of the Corporation;

“Special Circumstance” means:

- (i) an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public;
- (ii) an event that, unless immediately addressed, is likely to cause significant loss or damage to property;
- (iii) an event that has disrupted any essential service that needs to be re-established without delay; or
- (iv) an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, or any successor legislation thereto;

“Specialized Services” means those services requiring the skills of trades including, but not limited to electrical, mechanical, drywall, painting, HVAC, roofing, plumbing, electronics, and insulation;

“Supplier” means any individual or organization offering Goods and/or Services including but not limited to contractors, consultants, vendors and service organizations;

“Surplus Assets” means Goods, stocks and other assets, which are obsolete, damaged or surplus to that Department’s needs.

“Tender” means a written detailed offer from a Supplier to supply Goods and/or Services to the Corporation;

- (b) Schedules “A” and “B” attached hereto form part of this By-law.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

APPLICATION

3. (a) The policies and procedures outlined in this By-law, including all of the purposes, goals and objectives of Section 1 hereof, shall be followed for the Purchase of all Goods and/or Services by the Corporation or any of its officers, servants and employees.
- (b) The Methods of Purchasing set out in Sections 10 to 21, and the Reporting Procedures set out in Section 23, shall not apply to the Purchase and Disposal of those Goods and Services outlined in Schedule "A".
- (c) This provision provides authority for the Purchase of Goods and Services outlined in Schedule "A" as long as the funding is available in the Budget.
- (d) Any Contracts necessary to complete the Purchase of Goods and/or Services outlined in Schedule "A" shall be signed by the appropriate Document Execution Authority for "Single Source" as set out in Schedule "B", up to the prescribed limits provided that:
 - (i) the Contract has been prepared in a form satisfactory to the Director of Legal and Court Services;
 - (ii) any financial securities and insurance required under the Contract are satisfactory to the Director of Legal and Court Services; and
 - (iii) funding is available in the Budget.

RESPONSIBILITIES AND AUTHORITIES

4. (a) The Commissioner of **Enterprise Resource Management** Services/Treasurer shall have all the necessary authority to administer this By-law and to carry out his or her duties on behalf of the Corporation.
- (b) Procurement and Strategic Acquisitions is responsible for and shall have the authority to:
 - (i) acquire or dispose of Goods and/or Services;
 - (ii) call, receive, open and review Bids;
 - (iii) establish administrative procedures and policies for the implementation of this By-law;

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (iv) establish, through consultation with the Director of Legal and Court Services, standards for Bid Solicitations, Purchase Orders, Contracts and other documents;
- (v) establish, through consultation with the user Department and Director of Legal and Court Services, the terms and conditions of Bid Solicitations;
- (vi) provide guidelines on procurement policies and procedures and the structure, format and general content of Bid Solicitations;
- (vii) review proposed Bid Solicitations to ensure clarity, reasonableness and quality and advise staff of suggested improvements;
- (viii) establish, through consultation with the Director of **Financial Management and Planning**, policies and procedures to support the Corporation's Purchasing Card Policy **#C-F-023**, as may be amended.
- (ix) act on behalf of the Corporation, the Niagara Regional Police Services Board, and from time to time, other boards and agencies, for the purposes of the Purchase or Disposal of Goods and/or Services;
- (x) ensure open, fair and impartial Purchasing processes for Goods and/or Services which could include the services of a Fairness Monitor;
- (xi) ensure compliance with this By-law and advise the Commissioner of **Enterprise Resource Management** Services/Treasurer when there has been non-compliance. The Commissioner of **Enterprise Resource Management** Services/Treasurer shall take appropriate action to address and correct any non-compliance;
- (xii) develop co-operative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Corporation;
- (xiii) promote the standardization of Goods and/or Services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law; **and**
- (xiv) **responsible for ensuring that where applicable, all ensuing procurements are compliant with the current and revised values of CETA and CFTA.**

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (c) The Director of Procurement and Strategic Acquisitions, with the written approval of the Commissioner of ***Enterprise Resource Management*** Services/Treasurer, may delegate to an employee or employees, all or part of the authority in Subsection 4(b) above, which authority may be limited to a particular type of Goods and/or Services.
- (d) The CAO or Department Commissioner shall appoint in writing, Department Representatives who shall be responsible for the Purchasing of Goods and/or Services and oversight up to the value of their prescribed authority in accordance with Section 4 (e);
- (e) Department Representatives will also have the following specific responsibilities:
 - (i) ensuring that all Contract terms and conditions comply with the Bid Solicitation;
 - (ii) preparing and approving all specifications and terms of reference in consultation with Procurement and Strategic Acquisitions;
 - (iii) managing Contracts to ensure Goods and/or Services are received by the Corporation and comply with Contract terms and conditions;
 - (iv) monitoring all Contract expenditures and ensuring that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
 - (v) monitoring the performance of Suppliers;
 - (vi) standardizing the use of Goods and/or Services, where such standardization demonstrably supports the purposes, goals and objectives of this By-law; and
 - (vii) ensuring that all Goods and/or Services Purchased or Disposed have been received and recording receipt in the form prescribed by Procurement and Strategic Acquisitions.

REQUIREMENT FOR APPROVED FUNDS

- 5. (a) Except as provided in Section 17 hereof, the exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

- (b) Where Goods and/or Services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a Contract is subject to the following:
 - (i) the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget;
 - (ii) the Goods and/or Services will continue to be required in subsequent years and, in the opinion of the Commissioner of **Enterprise Resource Management** Services/Treasurer, the required funding can reasonably be expected to be made available; and
 - (iii) the Contract includes a provision that the supply of Goods and/or Services in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.
- (c) The Director of Procurement and Strategic Acquisition, may enter into contractual arrangements on behalf of the Corporation to permit acquisition of **Goods** or **Services** based on per-unit costing basis, without a specific budget and without obligation on the part of the Corporation to purchase specific goods or services until further authorized in accordance with this By-law. This only applies to goods or services that are widely used by the Corporation and the funding is reasonably expected to be available within Department **Budgets**.

TRADE AGREEMENTS

- 6.
 - (a) Purchases by the Corporation may be subject to the provisions of trade agreements, **including but not limited to CETA and CFTA**.
 - (b) Where an applicable trade agreement supersedes and is in conflict with this By-law, the trade agreement shall take precedence.
 - (c) Procurement and Strategic Acquisitions shall advise the appropriate Department Commissioner when a Purchase may not conform to an applicable trade agreement as early as possible in the Bid Solicitation process.

ADVERTISING OF BID SOLICITATIONS

7. (a) *Purchases covered under the monetary thresholds of CFTA shall, at a minimum, be advertised on the Bidding System for a minimum of ten (10) calendar days preceding the stated closing date.*
- (b) *Purchases covered under CETA shall be advertised on the Bidding System for a minimum of twenty-five (25) calendar days preceding the closing date. This requirement may be reduced by Procurement to ten (10) calendar days provided that:*
- (i) *a RFPQ has been previously issued for the Purchase; or*
- (ii) *a notice of planned procurement has been posted for the Purchase using the Bidding System at least forty (40) calendar days (and not more than twelve (12) months) in advance of the Bid posting.*
- (c) *The Corporation shall advertise Bids on any designated electronic Canada-wide single point of access as directed by the Government of Canada*
- (d) *Any person involved in Purchases may advertise Purchases for lesser amounts and/or on alternative platforms in addition to those prescribed in this section if they determine that it is in the Corporation's best interest to do so.*

PURCHASING DOCUMENTATION

8. (a) The use of standard Bid documents shall be approved by Procurement and Strategic Acquisitions and/or Legal and Court Services.
- (b) A Bid Solicitation may specify a specific product or brand name to ensure consistency, to minimize risk to the Corporation, or for other valid purposes.
- (c) All changes to standard Bid Solicitations and Contracts shall be reviewed and approved by the Director of Legal and Court Services.
- (d) Before issuance, all Bid Solicitations shall be reviewed by Procurement and Strategic Acquisitions.

METHODS OF PURCHASING

9. (a) Any person Purchasing or Disposing Goods and/or Services on behalf of the Corporation shall do so using one of the following methods of Purchasing set out in Sections 10 to 20 ("Methods of Purchasing"). The methods may be utilized individually or in combination with one another, as may be appropriate in the circumstances.
- (b) All Methods of Purchasing, except for the exemptions in Schedule "A" and Low Value Purchases **as described in Section 12**, shall be conducted through or reviewed by Procurement and Strategic Acquisitions.

REQUEST FOR PRE-QUALIFICATION

10. (a) Procurement and Strategic Acquisitions may conduct a Request for Pre-Qualification (RFPQ) to develop a list of Suppliers that may be eligible to submit a Bid on subsequent Bid Solicitations or to develop a roster in accordance with Section 20.
- (b) Pre-qualification may be considered in the following circumstances:
- (i) the work will require substantial project management by the Corporation and could result in substantial cost to the Corporation if the Supplier is not appropriately experienced;
 - (ii) the Goods and/or Services to be purchased must meet national safety standards;
 - (iii) the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials or financial requirements;
 - (iv) miscellaneous repairs and services as required by the Corporation such as plumbers, electricians, and drywall contractors;
 - (v) there could be substantial impact on the Corporation's operations if the work is not satisfactorily performed the first time; or
 - (vi) any other circumstances deemed appropriate by the Director of Procurement and Strategic Acquisitions.
- (c) An RFPQ shall be provided to the potential Suppliers setting out the criteria for pre-qualification which may include, but are not limited to:
- (i) experience on similar work (firm and staff assigned);

- (ii) references provided from other customers for similar work;
 - (iii) verification of applicable licences and certificates;
 - (iv) health and safety policies and staff training; and
 - (v) financial capability
- (d) Supplier submissions will be evaluated and ranked and a short list of pre-qualified Suppliers will be invited to participate in the second step of the two-step Purchasing process, being a Request for Proposal or a Request for Tender.
- (e) An RFPQ is not a legal offer but only an invitation for Suppliers to make offers to the Corporation.
- (f) All RFPQs shall be conducted in accordance with submission instructions in the Bid Solicitation and **advertised in accordance with** Section 7 of this By-law.

REQUEST FOR EXPRESSIONS OF INTEREST

11. Procurement and Strategic Acquisitions may conduct a Request for Expression of Interest for the purpose of determining the availability of Suppliers and for the purpose of compiling a list of Suppliers and may be used as a specific pre-condition of any Method of Purchasing utilized by the Corporation. The receipt of an expression of interest by the Corporation does not create any obligation between the potential Supplier and the Corporation.

LOW VALUE PURCHASES (UP TO \$10,000 EXCLUDING TAXES)

12. Department Representatives are authorized to procure Goods and/or Services up to a total value of \$10,000, excluding taxes. Only purchases that can be demonstrated to have been made at Fair Market Value shall be made. Department Representatives may procure Goods and/or Services through the following means:
- (a) Purchasing Card used in strict accordance with the *Purchasing Card Policy* as determined by the Commissioner of **Enterprise Resource Management** Services/Treasurer.
 - (b) Purchase Order to the Supplier; or

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

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CSC 1-2019;

Minute Item 7.6

- (c) in limited situations direct invoice from the Supplier approved by the Department Representative with authority to approved the **Purchase**.

INFORMAL QUOTATIONS**(PURCHASES GREATER THAN \$10,000 AND NOT EXCEEDING \$25,000 EXCLUDING TAXES)**

13. (a) For purchases with a total value greater than \$10,000 and not exceeding \$25,000, excluding taxes, an Informal Quotation method shall be utilized. If possible, at least three (3) written Quotations shall be solicited, analyzed and the results tabulated by the Department Representative. Quotations received shall be evaluated on price and the criteria outlined in the quotation request to determine the preferred Supplier.
- (b) The Purchase Requisition shall be prepared by the Department Representative, for signature and approval in accordance with the Purchasing Authorities set out in Schedule "B".
- (c) A Purchase Order shall be issued by the Department Representative when it has received all necessary approvals and the Department Representative, after due consideration, is satisfied the process and resulting documents comply with the requirements of Section 13 of this By-law and are consistent with the spirit of this By-law as set forth in Section 1 of this By-law.

REQUEST FOR QUOTATION**(PURCHASES GREATER THAN \$25,000 AND NOT EXCEEDING \$100,000 EXCLUDING TAXES)**

14. (a) For purchases with a total value greater than \$25,000 and not exceeding \$100,000, excluding taxes, a Request for Quotation may be used to Purchase and shall be issued by Procurement and Strategic Acquisitions.
- (b) The Department Commissioner or Department Representative shall provide to Procurement and Strategic Acquisitions **a Bid Document Form which includes** the relevant information such as specifications, provisions, plans and supplemental general conditions for the purchase.
- (c) Procurement and Strategic Acquisitions shall conduct the Bid Solicitation using a list of Suppliers compiled by the Department Representative and Procurement and Strategic Acquisitions.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (d) If possible, at least three (3) Quotations shall be solicited by Procurement and Strategic Acquisitions, analyzed and the results tabulated.
- (e) All RFQ's shall be conducted by Procurement and Strategic Acquisitions in accordance with Section 21.
- (f) Bids received shall be analyzed and evaluated by the Department Representative and Procurement and Strategic Acquisitions using the criteria outlined in the Bid Solicitation.
- (g) ***The Bid results will be reported in accordance with Section 23.***

REQUEST FOR TENDER**(PURCHASES GREATER THAN \$100,000 EXCLUDING TAXES)**

- 15. (a) For purchases with a total value greater than \$100,000, excluding taxes, a Request for Tender shall be issued through Procurement and Strategic Acquisitions provided that all of the following conditions apply:
 - (i) two (2) or more sources are considered capable of supplying the Goods and/or Services;
 - (ii) the Goods and/or Services are adequately defined to permit the evaluation of Tenders against clearly defined criteria; and
 - (iii) it is intended that the Lowest Compliant Bid will be accepted.
- (b) The Department Commissioner or Department Representative shall provide to Procurement and Strategic Acquisitions ***a Bid Document Form which includes*** the relevant information such as specifications, provisions, plans and supplemental general conditions for the Purchase.
- (c) All RFTs shall be conducted in accordance with Section 21.
- (d) All RFTs shall be advertised in accordance with Section 7.
- (e) Where an RFPQ has previously been conducted, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.
- (f) ***The Bid results will be reported in accordance with Section 23.***

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (g) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (h) ***The Corporation shall publish an Award notice using the Bidding System.***

**REQUEST FOR PROPOSAL of NEGOTIATED REQUEST FOR PROPOSAL
(PURCHASES GREATER THAN \$10,000 EXCLUDING TAXES)**

16. (a) A Request for Proposal ***or Negotiated Request for Proposal*** shall be issued through Procurement and Strategic Acquisitions where the Method of Purchasing meets one or more of the following criteria:
- (i) the Purchase is required as a result of a particular problem, requirement or objective;
 - (ii) the selection of the Supplier depends more upon the effectiveness of the proposed solution, rather than the price alone;
 - (iii) the precise Goods and/or Services, or the specifications therefor, are not known or are not definable and it is expected that Suppliers will further define them.
- (b) The Department Commissioner or Department Representative shall provide to Procurement and Strategic Acquisitions ***a Bid Document Form which includes*** the relevant information such as specifications, provisions, plans and supplemental general conditions for the Purchase.
- (c) A Request for Proposal ***or Negotiated Request for Proposal*** may be reviewed by Regional Council before it is issued where, at the discretion of the CAO and/or the Department Commissioner, the Goods and/or Services to be acquired meet one or more of the following criteria:
- (i) Significant value (i.e., exceeding the CAO's execution authority of \$5 million;
 - (ii) Significant public importance;
 - (iii) Significant complexity or specialization.
- (d) Procurement and Strategic Acquisitions shall conduct the Bid Solicitation ***in accordance with Section 21.***

- (e) **All RFPs and NRFPs** shall require Suppliers to submit a Bid in accordance with the instructions contained within the Bid Solicitation.
- (f) All RFPs **and NRFPs** will be evaluated based on the evaluation criteria outlined in the Bid Solicitation by an evaluation team which shall comprise of at least one Department Representative and one representative from Procurement and Strategic Acquisitions **whose role shall be limited to overseeing the evaluation process.**
- (g) **All RFPs and NRFPs** shall be advertised in accordance with Section 7.
- (h) **The Bid results will be reported in accordance with Section 23.**
- (i) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (j) **The Corporation shall publish an Award notice using the Bidding System.**

SPECIAL CIRCUMSTANCE PURCHASES

17. (a) Purchases that are required to respond to a Special Circumstance shall be authorized in accordance with Schedule "B". All such purchases must be reported to Procurement and Strategic Acquisitions on the following business day.
- (b) Contracts required to effect Special Circumstance purchases shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (c) When a Special Circumstance occurs where compliance with subsection 5(a) of this By-law is not reasonably achievable prior to the acquisition of required Goods or Services, a Contract may notwithstanding subsection 5(a), be awarded , provided that:
 - (i) The Commissioner of **Enterprise Resource Management** Services/Treasurer, in addition to all other required Document Execution Authorities otherwise required by this By-law, has consented to the Award;

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (ii) The Commissioner of **Enterprise Resource Management** Services/Treasurer, as soon as possible in the circumstances proceeds with identifying and approving or seeking approval of the funds required to pay for the **Purchase required to respond to the Special Circumstance**.

SINGLE SOURCE PURCHASES

18. (a) Bid Solicitations are not required for Single Source Purchases, provided that any of the following conditions apply:
 - (i) the compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration;
 - (ii) a Good or Service is Purchased for testing or trial use;
 - (iii) there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier;
 - (iv) an unforeseeable situation of urgency exists and the Goods and/or Services cannot be obtained in time by means of open procurement procedures;
 - (v) the Corporation has a rental contract with a purchase option and such purchase option is beneficial to the Corporation;
 - (vi) for matters involving security, police matters or confidential issues, in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the Corporation;
 - (vii) there are no bids in response to a Bid Solicitation;
 - (viii) a roster for Professional Services has been developed in accordance with Section 20 of this By-law.
- (b) The **Bid results will be reported** in accordance with Section 23.
- (c) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".
- (d) **Where required by CFTA legislation, the Corporation shall publish Single Source Awards on the Bidding System.**

NEGOTIATION

19. (a) Notwithstanding that Negotiation may be a component of another procurement process, Negotiation may be used for Purchases of Goods and/or Services when any of the following criteria apply:
- (i) the required Goods and/or Services are in short supply;
 - (ii) competition is precluded due to the existence of any patent right, copyright, technical secret or control of raw material;
 - (iii) a Sole Source is being recommended;
 - (iv) two (2) or more identical Bids are received;
 - (v) the Lowest Compliant Bid received meeting all specifications exceeds the Budget amount;
 - (vi) the extension of an existing Contract would be more effective;
 - (vii) only one (1) Bid is received in response to a Bid Solicitation;
 - (viii) the Bid Solicitation process has been cancelled without Award;
 - (ix) a roster for Professional Services has been developed in accordance with Section 20 of this By-law;
 - (x) there is Council authorization to do so.
- (b) The ***Bid results will be reported*** in accordance with Section 23.
- (c) All Purchases shall be authorized in accordance with the Purchasing Authorities set out in Schedule "B" and all Contracts shall be signed in accordance with the Document Execution Authorities set out in Schedule "B".

ROSTER FOR PROFESSIONAL OR SPECIALIZED SERVICES

20. (a) An RFPQ or an RFEOI may be conducted for the purpose of developing a roster of qualified Suppliers of Professional or Specialized Services for groups of projects requiring similar and particular expertise. While the use of a roster is strictly optional, the associated RFPQ or RFEOI shall be conducted in accordance with the provisions of this By-law.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
CSD 12-2015 Minute Item 5.2
CSC 1-2019;
Minute Item 7.6

As amended by By-law No. 2019-06

- (b) The Department Representative shall provide to Procurement and Strategic Acquisitions **a Bid Document Form which includes** the relevant information regarding the Professional Services or Specialized Services and required expertise.
- (c) Procurement and Strategic Acquisitions will prepare the RFPQ or RFEOI, inviting interested Suppliers to submit Bids outlining, among other things, their qualifications, availability, recent project experience, key personnel and roles, and sufficient references satisfactory to the Director of Procurement and Strategic Acquisitions for work of a similar nature.
- (d) **All RFPQs and RFEOIs shall be advertised in accordance with Section 7.**
- (e) An evaluation team consisting of members of the requesting Department and Procurement and Strategic Acquisitions shall analyze and evaluate the responses received using the criteria outlined in the RFPQ or RFEOI to select a number of qualified Suppliers of Professional or Specialized Services which shall be placed on a roster.
- (f) On subsequent projects, Suppliers of Professional or Specialized Services may be selected from the roster to submit detailed proposals in response to a Bid Solicitation, in accordance with Sections 12 through 16 of this By-law. The requesting Department shall invite Suppliers on the roster to provide Services, using best efforts to equally distribute opportunities amongst the Suppliers on the roster.
- (g) Alternatively, a Supplier may be selected from the roster to submit a Bid for Professional or Specialized Services in accordance with Section 18 or 19 of this By-law.
- (h) Rosters shall be updated at least once every two (2) years.

FORMAL BID PROCESS

21. (a) All Bids (with the exception of Informal Quotations) shall be received by Procurement and Strategic Acquisitions, in accordance with the instructions in the Bid Solicitation, and opened in public at the time and place stated in the Bid Solicitation.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (b) All Bids received shall be opened and the Suppliers name shall be read aloud and recorded. When the Bid Solicitation is for an RFT, the Bid amounts shall also be read aloud and recorded. Bidders shall be instructed that all information in the public opening is not official until the bid documents can be reviewed and verified.
- (c) When only one (1) Bid is received, only the Supplier's name shall be read aloud. The Bid amount shall not be read aloud.

CO-OPERATIVE PURCHASING

- 22. The Commissioner of ***Enterprise Resource Management*** Services/Treasurer may enter into arrangements with any government body, ministry, agency, board, corporation or authority on a co-operative or joint basis for Purchases of Goods and/or Services where there are economic advantages in so doing and, where a co-operative or joint basis Purchase occurs, such Purchases are deemed to comply with this By-law. Co-operative purchasing for reporting purposes shall be considered a Request for Proposal or a Request for Tender based on the process undertaken by the originating agency for Purchasing Authorities.

REPORTING PROCEDURES

- 23. (a) ***Awards in excess of \$25,000 which are issued in accordance with Sections 14, 15, 16 and 20 of this By-law shall be reported to the public by Procurement and Strategic Acquisitions using the Bidding System.***
- (b) ***The Director of Procurement and Strategic Acquisitions shall collect data and report to Council on Government Procurement and the Secretariat statistics as required for Purchases that are subject to the thresholds of CFTA and CETA.***

PRESCRIBED COUNCIL APPROVAL

- 24. Notwithstanding any other provision of this By-Law, the following Awards require Council approval:
 - (a) the recommended Award exceeds the amount budgeted for the Purchase;
 - (b) the authority to Award has not been expressly delegated to staff of the Corporation, and;
 - (c) the recommended Award is not the Lowest Compliant Bid.

DOCUMENT EXECUTION AUTHORITY

25. Employees or officers of the Corporation identified in Schedule "B" (Document Execution Authority) shall have the authority to execute Contracts and all other documents necessary to effect the Award or Purchase of Goods and/or Services, up to the prescribed limits, provided that the documents have been prepared in a form satisfactory to the Director of Legal and Court Services and that the Award or Purchase complies with this By-law.

FINANCIAL SECURITIES AND INSURANCE

26. (a) Procurement and Strategic Acquisitions may require that a Bid be accompanied by a Bid Deposit or other similar security to guarantee that the successful Supplier enters into a Contract with the Corporation.
- (b) In addition to the security referred to in Subsection 26(a), the successful Supplier may also be required to provide:
- (i) a Performance Bond to guarantee the performance of the Contract;
 - (ii) a Labour and Materials Bond to guarantee the payment for labour and materials to be supplied in connection with a Contract; and/or
 - (iii) such further security as Procurement and Strategic Acquisitions deems appropriate in the circumstances.
- (c) Prior to the commencement of work, the Supplier shall provide to the Corporation, proof of insurance in accordance with the Bid Solicitation, satisfactory to the Director of Legal and Court Services.
- (d) Failure to comply with all terms and conditions of a Bid Solicitation, including failure to provide proof of insurance as required, shall be just cause for cancellation of the Award.
- (e) Prior to the Corporation issuing payment to a Supplier, the Supplier shall provide a Certificate of Clearance from the Workplace Safety and Insurance Board confirming all premiums or levies have been paid to the Board to date.

BID IRREGULARITIES

27. (a) Procurement and Strategic Acquisitions will maintain procedures to administer Bid irregularities.
- (b) Each Bid Solicitation document issued by the Corporation will outline irregularities with Bid Submissions that may lead to the disqualification of a Bid, or may require corrective action to take place in order to make the Bid compliant. The Bid irregularities and the response that the Corporation would have to each irregularity may change from time to time. The listing of Bid irregularities and responses in a Bid Solicitation document is not intended to be a comprehensive listing of all irregularities
- (c) The process for administering irregularities arising from Bids shall be in the first instance, in accordance with the provisions of the Bid Solicitation and in the event the Bid Solicitation does not provide a full answer to the irregularity in question, then in accordance with the procedures maintained by Procurement and Strategic Acquisitions.
- (d) Notwithstanding subsection 27(c), Bid Irregularities shall not be handled in a manner that in the opinion of the Director of Legal and Court Services, the legal liability of the prescribed course of action will create a materially more significant risk of legal liability than an alternative method available to the Corporation.

FORM OF CONTRACT

28. (a) All Awards shall require the issuance of a Purchase Order.
- (b) An Award may require a formal written agreement in addition to a Purchase Order.
- (c) A Purchase Order may be used alone when the resulting Contract is straightforward and will refer to the Corporation's standard terms and conditions outlined in the Bid Solicitation.
- (d) A formal written agreement satisfactory to the Director of Legal and Court Services shall be used when the resulting Contract is complex or is a result of negotiation.
- (e) It shall be the responsibility of Procurement and Strategic Acquisitions in consultation with the Director of Legal and Court Services to determine if it is in the best interest of the Corporation to establish a formal written agreement with the Supplier.

SUPPLIER PERFORMANCE

29. (a) The Department Representative shall monitor and document the performance of Suppliers providing Goods and/or Services to that Department and shall advise Procurement and Strategic Acquisitions in writing when the performance of a Supplier has been unsatisfactory.
- (b) The Corporation may, in its sole discretion, disqualify a Supplier from bidding on any Bid Solicitation or reject a Bid if a Supplier:
- (i) has, at any time, threatened, commenced or engaged in legal claims or litigation against the Corporation;
 - (ii) is involved in a claim or litigation initiated by the Corporation;
 - (iii) previously provided Goods and/or Services to the Corporation in an unsatisfactory manner;
 - (iv) has failed to satisfy an outstanding debt to the Corporation;
 - (v) has a history of illegitimate, frivolous, unreasonable or invalid claims;
 - (vi) provides incomplete, unrepresentative references, or receives unsatisfactory external and/or internal references in a reference check undertaken by Regional Staff,
 - (vii) has engaged in conduct that leads the Corporation to determine that it would not be in the Corporation's best interests to accept the Bid.

DISPUTE RESOLUTION

30. (a) The Corporation encourages competitive bidding and an open, accountable and transparent process for the Purchase of Goods and/or Services.
- (b) To maintain the integrity of the Bid Solicitation process, Suppliers who believe they have been treated unfairly in a Bid Solicitation process shall submit either:
- (i) A Pre-Award Bid Dispute in writing to the Director, Procurement & Strategic Acquisitions, as soon as possible from the time when the basis for the dispute became known to them, and in cases where a bidder or proponent has been declared non-compliant, no later than five (5) business days after the receipt of such notification.

The Director, Procurement & Strategic Acquisitions may delay an award, or any interim stage of a procurement, pending the acknowledgement and resolution of any Pre-Award Bid Dispute.

The Director, Procurement & Strategic Acquisitions, in consultation with the Director, Legal and Court Services where appropriate, shall conduct a review of the Pre-Award Bid Dispute and determine whether:

- (1) To dismiss the Pre-Award Bid Dispute;
- (2) To accept the Pre-Award Bid Dispute and take the appropriate remedial action, including, but not limited to, reinstating the bidder or proponent into the competition or cancelling the call; or
- (3) To have the award made by Regional Council if it is believed that there is a material risk in proceeding with the award.

The bidder will receive a response within ten (10) business days unless a report to Council is required in which case the Bidder will receive a response in thirty (30) business days.

The Director, Procurement & Strategic Acquisitions may adopt and publish such further procedures as are necessary to ensure a timely review and resolution of Pre-Award Bid disputes, or;

- (ii) A Post-Award Bid Dispute to an award decision in writing to the Director, Procurement and Strategic Acquisitions no later than ten (10) business days after the date of the award notification, or where a debriefing has been requested, no later than five (5) business days after such debriefing is received. (The bidder will be entitled to a debriefing within sixty (60) calendar days of award.) Any dispute that is not timely received within these timeframes or not received in writing will not receive further consideration. The Director, Procurement and Strategic Acquisitions will review and respond to the dispute within ten (10) business days of receipt.

Any written dispute with a procurement value over \$100,000 that cannot be resolved by the Director, Procurement and Strategic Acquisitions through consultations with the bidder, shall be referred by the Director, Procurement and Strategic Acquisitions to the Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer or their designate(s) for an impartial review, based on the following information:

A Post-Award Bid Dispute would require that the bidder must set out specific detail to the Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer, including;

- (1) A specific description of each act or omission alleged to have materially breached the procurement process;
- (2) A specific identification of the provision in the solicitation or procurement procedure that is alleged to have been breached;
- (3) A precise statement of the relevant facts;
- (4) An identification of the issues to be resolved;
- (5) The bidder's arguments, including any relevant supporting documentation; and
- (6) The bidder's requested remedial action.

The Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer or designate(s), in consultation with the Director, Legal and Court Services, may set up an independent review team to review the Post-Award Bid Dispute and determine whether to;

- (1) Dismiss the Post-Award Bid Dispute; or
- (2) Accept the Post-Award Bid Dispute and direct the Director, Procurement & Strategic Acquisitions to take appropriate remedial action, including, but not limited to, rescinding the award and any executed contract, and canceling the procurement. This may also require a report to Council on how best to resolve the Post-Award Bid Dispute depending on the material risk of the situation.

The bidder will receive a response within ten (10) business days unless a report to Council is required in which case the Bidder will receive a response in thirty (30) business days.

The Commissioner, Enterprise Resource Management Services (ERMS)/Treasurer may adopt and publish such further procedures as are necessary to ensure an independent and timely review and resolution of Post-Award Bid Disputes.

LOBBYING RESTRICTIONS

31. (a) Suppliers, their staff members, or anyone involved in preparing a Bid, shall not engage in any form of political or other Lobbying whatsoever or seek to influence the outcome of the Bid Solicitation process or subsequent Award. This restriction extends to all of the Corporation's staff and anyone involved in preparing a Bid Solicitation or participating in a Bid evaluation process, and members of Council.
- (b) The Corporation may reject any Bid by a Supplier that engages in such Lobbying, without further consideration, and may terminate that Supplier's right to continue in the Bid Solicitation process.
- (c) During a Bid Solicitation process, all communications shall be made through Procurement and Strategic Acquisitions. No Supplier or person acting on behalf of a Supplier or group of Suppliers, shall contact any elected official, consultant or any employee of the Corporation to attempt to seek information or to influence the Award.
- (d) Elected officials shall refer any inquiries about a Bid Solicitation process to the Commissioner of **Enterprise Resource Management** Services /Treasurer.

ACCESS TO INFORMATION

32. (a) The disclosure of information received relevant to Bid Solicitations or Awards shall be made by the appropriate officers in accordance with the provisions of all relevant privacy legislation including primarily the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended.

- (b) All Suppliers who contract with the Corporation shall adhere to or exceed the standards set in the *Municipal Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, Sched. A, or other relevant Ontario or federal privacy legislation or common law as may be passed or amended from time to time, as if they were agents of the Corporation as relates to the confidential and secure treatment, including collection, use, disclosure or retention, of personal (health) information, other confidential information of the Corporation, and all records thereof which they come into contact with in the course of performing Services or providing Goods to the Corporation.

SURPLUS ASSETS

- 33. (a) Directors shall submit to Procurement and Strategic Acquisitions from time to time and upon request, a list of Surplus Assets.
- (b) All Surplus Assets shall first be offered to other Departments within the Corporation.
- (c) All Surplus Assets not required by any Department of the Corporation may then be offered to area municipalities, agencies and charitable organizations within the Niagara region prior to any public Disposal procedure.
- (d) Procurement and Strategic Acquisitions shall have the authority to sell or dispose of all Surplus Assets, by sealed bid, public auction or any other public sale.
- (e) The sale of Surplus Assets shall be made to the highest bidder and in accordance with the provisions of this By-law.
- (f) The respective **capital reserve** shall be credited with the net proceeds, if any, from the Disposal of its Surplus Assets unless otherwise agreed.
- (g) Surplus Assets shall not be sold directly to an employee or to a member of Council, although this does not prohibit any employee or member of Council from purchasing Surplus Assets being sold through a public process.
- (h) Surplus Assets may be donated to non-profit agencies or non-profit institutions for educational or teaching purposes only. Donated items shall not be re-sold. All donated Surplus Assets must be approved by the Department Commissioner.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

- (i) On termination of their relationship with Niagara Region, any outgoing employee or regional councillor can request the opportunity to Purchase the business laptop computer provided to them. Such Purchases must be approved by the Commissioner of **Enterprise Resource Management** Services/Treasurer on condition that the computer be at least three years old and the purchaser must pay equal or greater than the market value as determined by the average sale price of similar computers sold over the prior six months through the public auction process or other measure acceptable to the Commissioner of **Enterprise Resource Management** Services/Treasurer.

COMPLIANCE

- 34. (a) All persons involved in the Purchase or Disposal of Goods and/or Services provided for in this By-law, shall act in a manner consistent with the requirements and objectives of this By-law.
- (b) Purchases may not be divided into two (2) or more parts to avoid the requirements of this By-law.
- (c) Any Goods and/or Services that are obtained in contravention of this By-law will be subject to investigation by the Corporation, following which the Corporation will take the necessary corrective action.
- (d) Any employee of the Corporation who knowingly contravenes this By-law is committing a serious act of misconduct. The Corporation reserves its right to take any action at law against the employee for the misconduct including without limitation, disciplinary action up to and including termination.
- (e) Non-compliant Purchases or obligations entered into for a Good or Service can be completed by the Corporation if deemed appropriate to avoid legal jeopardy and/or undue disruption to program delivery. The Director of Procurement and Strategic **Acquisitions** and the Commissioner of **Enterprise Resource Management** Services/Treasurer are required to approve all non-compliant exceptions and upon such approval being provided, shall be deemed for the purposes of subsection 34(e) to be in compliance with this By-law.

ENVIRONMENTALLY SOUND ACQUISITIONS

35. Departments will endeavour to include specifications in Bid Solicitations that provide for energy efficient products, reusable products and products that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the product or service. It is recognized that cost analysis is required in order to ensure that the products are competitively priced.

IN HOUSE BIDS

36. In House Bids may be used for the Purchase of Goods and/or Services where:
- (a) external Suppliers have also been requested to submit Bids; and
 - (b) Council has approved a format for the development and submission of the In House Bids.

PROVIDING ASSISTANCE

37. The CAO has the authority, provided there is no adverse impact upon the operations of the Corporation, to lend, lease, rent or otherwise provide any vehicle, equipment or other goods owned by the Corporation to any federal, provincial or municipal body, ministry, agency, board, corporation or other public authority when such action is reasonably justified due to unforeseen conditions, and shall report such action to Council forthwith.

CONFLICT OF INTEREST

38. (a) Personal Purchases shall not be made for any elected or appointed officials, members of a board or commission, or for Corporation officers, employees or their families.
- (b) An employee of the Corporation who has the responsibility for declaring Surplus Assets shall not bid on or personally obtain any goods that he or she has declared as surplus.

- (c) Every elected official, appointed officer, employee of the Corporation or member of an employee's family is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any Purchase Order or Contract is, or might be awarded, any rebate, gift or money, except:
 - (i) gifts of a very small intrinsic value; or
 - (ii) moderate hospitality during the normal course of business that would not significantly exceed what the Corporation, through the employee's expense account, would likely provide in return and would not be perceived by others as influencing the making of a business decision.
- (d) All elected officials, officers or employees of the Corporation shall declare any Conflicts of Interest to the Commissioner of **Enterprise Resource Management** Services/Treasurer and shall have no involvement in a Bid Solicitation process where a real or perceived Conflict of Interest has been found or deemed to exist, including, but not limited to:
 - (i) requesting the Goods and/or Services, setting the parameters of the Purchase, evaluating Bids or recommending, deciding or making Awards;
 - (ii) direct contact with those making those Purchasing decisions, both in Procurement and Strategic Acquisitions and the user Department.
- (e) Suppliers shall not be allowed to submit a Bid for any Bid Solicitation in which the Supplier has participated in the preparation of the Bid Solicitation, and any such Bid submitted shall be disqualified.

SEVERABILITY

39. If any Section or Sections of this By-law or parts thereof are found by an adjudicator of competent jurisdiction to be invalid or beyond the power of Council to enact, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of the By-law shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;

CSD 12-2015 Minute Item 5.2

As amended by By-law No. 2019-06

CSC 1-2019;

Minute Item 7.6

BY-LAW REVIEW

40. The Commissioner of ***Enterprise Resource Management*** Services/Treasurer shall review the effectiveness of this By-law at least every five (5) years and report to Council as necessary.

REPEAL

41. (a) ***That By-law No. 02-2016 of The Regional Municipality of Niagara shall be amended effective on the date that this By-law comes into force.***
- (b) ***That, notwithstanding Subsection 41(a), By-law No. 02-2016, as amended, of The Regional Municipality of Niagara shall continue to apply to all Bid Solicitations commenced before its amendment.***

EFFECTIVE BY-LAW DATE

42. This By-law shall come into force and effect on the day upon which it is signed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Original Signed By:

Alan Caslin, Regional Chair

Original Signed By:

Ralph Walton, Regional Clerk

Passed: November 12, 2015

Schedule "A"

The Purchase of the items in this Schedule "A" shall be made in accordance with Section 3 of this By-law.

1. Petty Cash Purchases and Replenishment
2. Training and Education
 - (a) Conferences, conventions, courses and seminars
 - (b) Magazines, books, periodicals
 - (c) Memberships
 - (d) Staff Development
3. Refundable Councillor and Employees Expenses
 - (a) Advances
 - (b) Meal Allowances
 - (c) Travel and Entertainment
 - (d) Miscellaneous - Non-Travel
4. Employer's General Expenses
 - (a) Payroll Deductions Remittances
 - (b) Medical
 - (c) Licenses (Vehicle, Firearms, etc.)
 - (d) Debenture Payments
 - (e) Insurance Premiums
 - (f) Grants to Agencies
 - (g) Damage Claims
 - (h) Customs Brokerage Fees
 - (i) Tax Remittances
 - (j) Regional charges to and from other government bodies
 - (k) Sinking Fund Payments
 - (l) Payments for employment
 - (m) Postage

Schedule "A"

5. Professional and Special Services
 - (a) Committee Fees
 - (b) Medical and Laboratory Services
 - (c) Fees for professional legal or legal related expert services engaged by Legal and Court Services
 - (d) Payments to Social Service and Health Agencies that are subject to Purchase of Service Agreements, such as child care providers.
 - (e) Medical and Dental fees
 - (f) Funeral and Burial expenses
 - (g) Appraiser Fees
 - (h) Witness fees
 - (i) Honorariums
 - (j) Work payments to Long Term Care Residents
 - (k) Advertising
 - (l) Vouchers for all expenses for Social Service Recipients
6. Banking Services and Charges
7. Utilities (monthly charges)
 - (a) Water and Sewer
 - (b) Hydro
 - (c) Gas
 - (d) Communication Infrastructure Services such as Bell, Cogeco, Rogers, etc.
8. Utilities – Other
 - (a) Utility relocations
 - (b) Construction work completed by Railways on property of the Corporation and billed to the Corporation.

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
 CSD 12-2015 Minute Item 5.2
 CSC 1-2019;
 Minute Item 7.6

As amended by By-law No. 2019-06

Schedule "B"

**PROCUREMENT BY-LAW
 THE REGIONAL MUNICIPALITY OF NIAGARA
 PURCHASING AND EXECUTION AUTHORITY**

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Low Value (for routine Purchases of low dollar value)	Up to \$10,000	Department Manager	Department Director	Department Manager
Informal Quotation (obtain, if possible, 3 written quotations for goods and services)	> \$10,000 to \$25,000	Department Manager	Department Director	Department Manager
Formal Quotation (formal bid solicitation to obtain quotations from at least 3 suppliers)	> \$25,000 to \$100,000	Department Manager	Department Commissioner	Department Manager

Bill 02-2016

As amended by By-law No. 2019-06

Authorization Reference: PAC-C 3-2015;
 CSD 12-2015 Minute Item 5.2
 CSC 1-2019;
 Minute Item 7.6

Schedule "B"

**PROCUREMENT BY-LAW
 THE REGIONAL MUNICIPALITY OF NIAGARA
 PURCHASING AND EXECUTION AUTHORITY**

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Request for Tender	> \$100,000 to \$250,000	Department Director	Department Commissioner	Department Manager
	> \$250,000 to \$1 million	Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	> \$1 million to \$5 million	Department Commissioner, and the Commissioner of Enterprise Resource Management Services/Treasurer and the CAO	CAO	Department Director
	> \$5 million	Council	Regional Clerk and Regional Chair	Department Commissioner

Bill 02-2016

As amended by By-law No. 2019-06

Authorization Reference: PAC-C 3-2015;
 CSD 12-2015 Minute Item 5.2
 CSC 1-2019;
 Minute Item 7.6

Schedule "B"

**PROCUREMENT BY-LAW
 THE REGIONAL MUNICIPALITY OF NIAGARA
 PURCHASING AND EXECUTION AUTHORITY**

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Request for Proposal	> \$10,000 to \$25,000	Department Manager	Department Director	Department Manager
	> \$25,000 to \$100,000	Department Manager	Department Commissioner	Department Manager
	> \$100,000 to \$250,000	Department Director	Department Commissioner	Department Manager
	> \$250,000 to \$1 million	Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	> \$1 million to \$5 million	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer and the CAO	CAO	Department Director
	> \$5 million	Council	Regional Clerk and Regional Chair	Department Commissioner

Bill 02-2016

Authorization Reference: PAC-C 3-2015;
 CSD 12-2015 Minute Item 5.2
 CSC 1-2019;
 Minute Item 7.6

As amended by By-law No. 2019-06

Schedule "B"

**PROCUREMENT BY-LAW
 THE REGIONAL MUNICIPALITY OF NIAGARA
 PURCHASING AND EXECUTION AUTHORITY**

Method Of Purchasing	Dollar Value	Purchasing Authority*	Document Execution Authority	Payment Release Authority
Special Circumstance, Single Source and Negotiation	> \$10,000 to \$25,000	Department Director	Department Director	Department Manager
	> \$25,000 to \$100,000	Department Director and the Manager of Procurement and Department Commissioner	Department Commissioner	Department Manager
	> \$100,000 to \$250,000	Department Director and the Manager of Procurement and Department Commissioner	Department Commissioner and Commissioner of Enterprise Resource Management Services/Treasurer	Department Manager
	>\$250,000 to \$1,000,000	Department Commissioner and the Director of Procurement and Strategic Acquisitions and Commissioner of Enterprise Resource Management Services/Treasurer	Department Commissioner and CAO	Department Director
	>\$1,000,000	Council	Regional Clerk and Regional Chair	Department Commissioner

* "Purchasing Authority" means those positions listed, and includes any position which is higher in the Corporation's reporting structure.

INDEX

PURPOSES, GOALS AND OBJECTIVES OF THIS BY-LAW	1
DEFINITIONS	2
APPLICATION	9
RESPONSIBILITIES AND AUTHORITIES.....	9
REQUIREMENT FOR APPROVED FUNDS	11
TRADE AGREEMENTS	12
ADVERTISING OF BID SOLICITATIONS.....	13
PURCHASING DOCUMENTATION.....	13
METHODS OF PURCHASING	14
REQUEST FOR PRE-QUALIFICATION	14
REQUEST FOR EXPRESSIONS OF INTEREST	15
LOW VALUE PURCHASES	15
INFORMAL QUOTATIONS	16
REQUEST FOR QUOTATION	16
REQUEST FOR TENDER.....	17
REQUEST FOR PROPOSAL of NEGOTIATED REQUEST FOR PROPOSAL.....	18
SPECIAL CIRCUMSTANCE PURCHASES	19
SINGLE SOURCE PURCHASES.....	20
NEGOTIATION	21
ROSTER FOR PROFESSIONAL OR SPECIALIZED SERVICES	21
FORMAL BID PROCESS.....	22
CO-OPERATIVE PURCHASING	23
REPORTING PROCEDURES.....	23
PRESCRIBED COUNCIL APPROVAL.....	23
DOCUMENT EXECUTION AUTHORITY	24
FINANCIAL SECURITIES AND INSURANCE	24
BID IRREGULARITIES	25
FORM OF CONTRACT.....	25
SUPPLIER PERFORMANCE.....	26
DISPUTE RESOLUTION	26
LOBBYING RESTRICTIONS	29
ACCESS TO INFORMATION	29
SURPLUS ASSETS	30
COMPLIANCE	31
ENVIRONMENTALLY SOUND ACQUISITIONS	32
IN HOUSE BIDS	32
PROVIDING ASSISTANCE	32
CONFLICT OF INTEREST.....	32
SEVERABILITY.....	33
BY-LAW REVIEW	34
SCHEDULE "A" – EXCEPTIONS TO FORMAL PURCHASING PROCESS	35
SCHEDULE "B" – PURCHASING AND EXECUTION AUTHORITY.....	37