

ADMINISTRATION

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Article 1
INTERPRETATION

170.1.1 Adjusted bid - defined

“adjusted bid” means a tendered price that has been adjusted upward or downward due to mathematical errors in extensions in order to compare tenders on an equal basis.

170.1.2 Consulting services - defined

“consulting services” means qualified technical and management consulting services.

170.1.3 Contract - defined

“contract” means any formal legal agreement for the supply of goods, services or consulting services including a contract arising out of the acceptance of a tender, request for proposal or formal quotation.

170.1.4 Department - defined

“department” means any department within the City.

170.1.5 Department head - defined

“department head” means a member of the Management Committee.

170.1.6 Formal quotation - defined

“formal quotation” means a request for prices, coordinated by the Manager of Purchasing, on specified goods or services from selected sources which are submitted in writing by a specified closing date and time.

170.1.7 Goods or services - defined

“goods or services” includes all supplies, materials, equipment or services, but does not include consulting services.

170.1.8 Informal bid - defined

“informal bid” means an offer that contains a minor omission on a tender, that is not fully in accordance with the Instruction to Bidders and that would not disqualify the tender.

170.1.9 Lowest ultimate cost - defined

“lowest ultimate cost” is that cost, after all factors of price, quality, terms and conditions, service, and warranty are considered, that results in the lowest cost of purchase, ownership, or operation over the life of the good or service to the City.

117.1.10 Manager of Purchasing - defined

“Manager of Purchasing” means the Manager of Purchasing or designate, under the City Treasurer.

170.1.11 Procedure - defined

“procedure” means internal instructions or guidelines to departments, issued by the Manager of Purchasing on purchasing and materials management matters.

170.1.12 Proposal - defined

“proposal” means a process to secure offers where the requirements for goods or services cannot be definitely specified.

170.1.13 Purchasing card - defined

“purchasing card” means a card used by authorized employees to purchase within specified transaction limits.

170.1.14 Qualified bid - defined

“qualified bid” means a limited or conditional offer that modifies or otherwise does not meet an important term or condition of the tender, that would disqualify the tender.

170.1.15 Requisition - defined

“requisition” means a written request to purchase goods, services or consulting services on an approved form.

170.1.16 Tender - defined

“tender” means a written formal offer submitted in response to an invitation, in a particular form, to supply stipulated goods or services at a particular price.

170.1.17 Value - defined

“value” means the purchase price if known or the total estimated cost to purchase goods, services or consulting services, exclusive of GST, PST and delivery charges.

Article 2
AUTHORITY AND RESPONSIBILITIES

170.2.1 Direction - City Treasurer

The Manager of Purchasing shall be under the general direction of the City Treasurer.

170.2.2 Direction - by Manager of Purchasing

The Manager of Purchasing is responsible for directing and supervising the Purchasing Division staff in the scheduling, forecasting and purchasing, storage and distribution of all goods, services or consulting services.

170.2.3 Purchases - negotiations

The purchase of all goods, services or consulting services shall be negotiated only by the Manager of Purchasing upon authority of a written and properly authorized requisition, and when required under Article 3 (Purchasing Parameters), a resolution of Council. The Manager of Purchasing may, however, initiate purchase orders for the replenishment of inventory items.

170.2.4 Policies and recommendations

The Manager of Purchasing shall develop and recommend purchasing and materials management policies and procedures, in consultation with other departments. All changes to policies and procedures must be approved by Council.

170.2.5 Materials management - purchasing - tendering

The Manager of Purchasing shall adhere to this Chapter by developing and implementing materials management, purchasing and tendering procedures which shall first be approved by the City Treasurer.

170.2.6 Good vendor relations

The Manager of Purchasing shall be responsible for maintaining good vendor relations and for the conduct of all negotiations with vendors. All inquiries regarding materials, prices, services, delivery, terms and conditions and adjustments are to be conducted by or through the Manager of Purchasing.

170.2.7 Co-operative purchasing plans - other governments

The Manager of Purchasing shall have authority to participate with other governments or government agencies in co-operative purchasing when, in the Manager's opinion, the best interests of the City would be served.

170.2.8 Co-operative purchasing plans - other boards

The Manager of Purchasing is authorized to co-operate with local boards, commissions and such other organizations performing services for or on behalf of the City with respect to co-operative purchasing and with respect to providing general advice, information or assistance pursuant to such requests.

Article 3
PURCHASING PARAMETERS

170.3.1 Competitive purchasing - required

Except as otherwise stipulated in Article 7 (EMERGENCY) all purchases of goods, services or consulting services shall be made on a competitive basis, in keeping with accepted public purchasing practices and procedures and in accordance with the applicable laws of the Province of Ontario and the Government of Canada.

170.3.2 Field orders - maximum - \$2,500

Field orders may be issued for goods or services to be picked up, delivered or provided to an authorized employee of the City, provided the value of the goods or services does not exceed \$2,500 per order.

170.3.3 Purchasing card - pre-established limits

Corporate purchasing cards may be used to acquire items that have a monthly cumulative amount per card of no more than \$10,000 including all costs and taxes. Individual transactions have a maximum limit of \$2,500. Any changes must be approved by the Director of Accounting. Individual transactions are not to be divided, nor are purchasing cards to be used on a repetitive basis to circumvent stipulated amounts. At no time is a purchasing card to be used to obtain goods or services for the personal use of the cardholder. Failure to comply with the above or any other terms of issuance of the purchasing card may result in privileges being revoked.

170.3.4 Value - \$2,500 to \$10,000

Where the value of goods or services required is in excess of \$2,500 but does not exceed \$10,000, the purchase may be made on the authority of the Manager of Purchasing provided a requisition approved by the Department Head or designate has been obtained. A purchase order is required. Requisitions or purchase orders are not to be artificially structured to avoid these restrictions. At the discretion of the Manager of Purchasing three written informal quotes may be required.

170.3.5 Value - \$10,000 to \$20,000

Where the value of goods or services required is in excess of \$10,000 but does not exceed \$20,000, the purchase may be made on the authority of the Manager of Purchasing provided the department has obtained three written informal quotes which shall be attached to a requisition approved by the Department Head or designate. A purchase order is required. Requisitions or purchase orders are not to be artificially structured to avoid these restrictions.

170.3.6 Value - \$20,000 to \$100,000

Where the value of goods or services required is in excess of \$20,000 but does not exceed \$100,000, the purchase may be made on the authority of the Manager of Purchasing provided a requisition approved by the Department Head has been obtained and an attempt has been made to obtain three written formal quotations. For any written formal quote that is accepted other than the lowest bid, a report shall be written to the next meeting of Council for their information. Any recommended written formal quote where the value of goods or services required is in excess of \$100,000 shall be forwarded to Council for approval. A purchase order is required. Requisitions or purchase orders shall not be artificially structured to avoid these restrictions or limits.

**Article 4
TENDERS****170.4.1 Goods or services - more than \$100,000**

Where the estimated value of goods or services required exceeds \$100,000, the purchase shall be made by a request for sealed tenders.

170.4.2 Advertisements - local paper

Advertisement of such requests as set out in Section 170.4.1 shall be made in at least one local newspaper.

170.4.3 Invitations - to potential bidders

Invitations to tender may also be sent directly to potential bidders in addition to advertising.

170.4.4 Request - expression of interest - pre-qualification

- (a) When it is deemed to be in the best interest of the City; and where the Manager of Purchasing has received authorization from Council to pre-qualify, a list of qualified bidders will be compiled based on:
 - (i) a Request for Expression of Interest advertised in at least one local newspaper; and
 - (ii) a review of all replies to the Request for an Expression of Interest by a City Selection Committee composed of at least one member of the staff of the Purchasing Division and a representative of the department requiring the goods or services.
- (b) The Committee shall prepare a list of all those respondents to the Request for an Expression of Interest who in the Committee's opinion best meet the criteria specified in the Request for an Ex-

pression of Interest, which the Manager of Purchasing shall present to Council for approval.

Article 5 PROPOSALS

170.5.1 Requests for proposals - standards

Requests for proposals may be called where the requirement or function of goods or services cannot be definitely specified and where such proposals would result in specific offers by the bidders to fulfill the requirements or function at a particular price. Requests for proposals shall conform to all standard purchasing parameters.

Article 6 CONSULTING AND PROFESSIONAL SERVICES

170.6.1 Selection procedures - set out

Subject to the application of the provisions of Council's Policy and Procedures for the Selection of Consultants and Professional Services, the provisions of Sections 170.6.2 through 170.6.4 inclusive shall apply to the selection of consultants and professional services.

170.6.2 Fees of less than \$20,000

Where the required services are estimated not to exceed \$20,000, the appropriate Department Head or designate shall negotiate an agreement with the selected consultant based on the defined scope of the project. If appropriate, the City's standard Consultant Agreement may form the basis of the contract. In any event, a purchase order will be issued to define the work.

170.6.3 Fees of more than \$20,000 and less than \$100,000

- (a) A Review Committee shall review consultant files or equivalent professional listings for professional consultants and nominate a minimum of three and a maximum of six qualified consultants.
- (b) The Purchasing Division shall invite "Expressions of Interest" from the nominees.
- (c) A fee structure may or may not be required at this point. The Review Committee may choose to shortlist the nominees and conduct interviews to select a consultant.
- (d) The Committee shall prepare a list of all those respondents to the Request for an Expression of Interest who in the Committee's opinion best meet the criteria specified in the Request for an Expression of Interest, which the Manager of Purchasing shall present to Council for approval.

- (e) If appropriate, the City's standard form of Consultant's Agreement may form the basis of a contract. In any event, a City purchase order will be issued to define the work.
- (f) Any increases to an approved consultant fee that is more than 10% or is not within the budget originally approved must be approved by resolution of Council.

170.6.4 Projected fees greater than \$100,000

- (a) A Review Committee shall review consultant files or equivalent professional listings for potential consultants.
- (b) The Purchasing Division will advertise publicly in at least one local newspaper and/or other news media having national or specialized circulation if deemed advisable, to obtain "Expressions of Interest" as well as contacting directly those qualified consultants identified from the consultant files.
- (c) The Review Committee shall apply the selection criteria, rank each reply and prepare a shortlist of a minimum of three and a maximum of six qualified consultants. The short-listed consultants shall be requested to submit detailed written proposals. The proposals should include, but not be limited to, outline of work to be done; names, qualifications and experience of staff to be assigned; time schedule; fee schedule, including set up cost. In addition, the Review Committee shall interview the short-listed nominees.
- (d) The Review Committee shall apply the selection criteria to rate the written proposals and select the most qualified.
- (e) The Review Committee shall negotiate an agreement with the selected consultant based on the defined scope of the project. The City's standard Consultant's Agreement may form the basis of a contract. In any event, a purchase order will be issued to define the work. If the Review Committee is unable to reach an agreement with the first selected consultant, then the subsequently rated consultant will in turn be approached with the objective of reaching an agreement. The Manager of Purchasing shall prepare a report, with recommendations, to the Chief Administrative Officer for subsequent approval by Council.
- (f) Subsequent to Council approval, all contracts shall be reviewed by the City Solicitor and the Manager of Purchasing shall notify all responders of the successful consultant.
- (g) Any increase to an approved consultant fee that is more than 10% or is not within the budget originally approved must be approved by Council.

Article 7
EMERGENCY

170.7.1 Department Head - authority

Subject to the application of the provisions of By-law 93-200 which established an Emergency Plan governing the provision of necessary services during an emergency, the following shall apply where an emergency occurs which, in the opinion of a Department Head or designate, constitutes imminent danger to life, limb or property within the City:

- (a) a Department Head or designate may initiate a purchase order;
- (b) any purchase order that has a value in excess of \$100,000, issued under such conditions shall be justified and reported to the next meeting of Council following the date of the issue of the purchase order.

Article 8
PURCHASE BY NEGOTIATION

170.8.1 Manager of Purchasing - authority

The Manager of Purchasing may, under one of the following conditions, purchase by negotiating with one or more sources or bidders. Under the following cases the requirements for inviting tenders and quotations may be waived:

- (a) the goods or services are in short supply due to market conditions and in the judgment of the Manager of Purchasing;
- (b) there is only one source of supply for the goods or services;
- (c) two or more identical bids have been received;
- (d) the Manager of Purchasing has been unsuccessful in breaking identical bids and the same goods or services are required;
- (e) the lowest bid meeting the specifications is excessive in total cost and/or exceeds the estimated cost by at least 10%;
- (f) all bids received failed to meet the specifications and/or tender terms and conditions and it is impractical to recall tenders or formal quotations.

170.8.2 Fair - ethical practices

The methods of negotiation shall be those accepted as standard negotiating procedures that employ fair and ethical practices. The information pertinent to and the results of all such negotiations shall be reported to the Chief Administrative Officer and/or the City Treasurer and at the discretion of the Chief Administrative Officer shall be reported to Council. In the case of identical bids, such information and results shall remain confidential.

170.8.3 Contract - exceeding \$100,000 - Council resolution

Any resultant negotiated purchase contract exceeding \$100,000 shall be subject to resolution of City Council at the next meeting of City Council.

Article 9**PUBLIC TENDER OPENINGS****170.9.1 Opening - recording**

All tenders shall be opened in the presence of two witnesses who must be employees having supervisory responsibilities. Any member of the public may attend if they so desire. Each tender shall specify that the tenders will be opened in City Hall at a named time and date.

170.9.2 Opening - witnesses

Every tender received within the time specified in the tender documents shall be opened in full view of those attending and each bidder's name and the total tendered amount read aloud by the Manager of Purchasing and recorded by one of the witnesses.

170.9.3 Report - results - recommendations

The Manager of Purchasing shall, after analysis of all tenders opened and consultations with the appropriate Department Head or designate, report the tender results and shall make a recommendation to the Chief Administrative Officer as to which, if any tender, should be accepted.

170.9.4 Report - contents

The Manager of Purchasing will indicate in the report the following information:

- (a) which, if any, tender(s) do not comply in all respects with the Instruction to bidders;
- (b) the terms and conditions of the tender;
- (c) which tender(s) are, in the Manager of Purchasing's opinion, informal and/or qualified.

Article 10**RECOMMENDATION TO AWARD****170.10.1 Criteria - lowest ultimate cost**

Any recommendation to award will be in favour of a bidder meeting specifications, terms and conditions of the tender and whose tender offers the lowest ultimate cost to the City for the goods or services being tendered with due consideration of the importance of quality, service and price.

170.10.2 Pertinent information - to Council

Council shall be given all pertinent information relative to the tender results and any one tender being recommended.

170.10.3 Award - by resolution of Council

Tenders shall be awarded by resolution of Council.

170.10.4 Expenditures - in excess of the approved tender

Any increases to an approved tender that is more than 10% or is not within the budget originally approved must be approved by resolution of Council.

**Article 11
SIGNING AUTHORITY****170.11.1 Contracts - less than \$100,000**

The Manager of Purchasing is authorized to sign such contracts that have a value less than \$100,000.

170.11.2 Construction contracts - less than \$100,000

Construction work less than \$100,000 in value may be authorized and undertaken upon completion of the City's standard Short Form Agreement or a purchase order signed by the Manager of Purchasing.

170.11.3 Contracts - exceeding \$100,000

All contracts including construction, consulting and maintenance contracts in excess of \$100,000 shall be executed under seal and signed by the Mayor and City Clerk or designate.

170.11.4 Purchase orders - any value

The Manager of Purchasing is authorized to sign all purchase orders issued pursuant to this Chapter.

**Article 12
PROHIBITIONS****170.12.1 Prohibited - activities**

The following activities are prohibited:

- (a) the division of contracts and purchases of goods, services or consulting services in an attempt to avoid the requirements of this Chapter;
- (b) the purchase by the City of any goods or services for personal use by or on behalf of any City employee or elected official or their families;
- (c) the purchase of any Corporate assets unless such assets have been declared surplus and offered for sale by tender or public auction;

- (d) the purchase of any surplus goods by a City employee or by a member of an employee's family if that City employee:
 - (i) is working at an auction run by the City for the disposal of surplus goods;
 - (ii) was responsible for declaring the goods surplus to the City's needs; or
 - (iii) is otherwise involved in the disposal of goods surplus to the City's needs,
- (e) the acquisition of goods from external sources if such goods are available in the City Stores unless it can be demonstrated that purchase from an external source will result in a lower total acquisition cost;
- (f) the purchase, directly or indirectly, of any goods, services or consulting services from any City employee or elected official or their families.

Article 13 PAYMENT OF ACCOUNTS

170.13.1 City Treasurer - authorization to pay

The City Treasurer shall honour and pay for all goods or services obtained by a purchase order, a Progress Certificate on Construction or other authorized purchase methods available to City departments.

170.13.2 Variation - in terms - price

Minor variances excluded, invoices that do not agree with the terms and conditions of the purchase order or the prices thereon shall be sent for the approval of the Manager of Purchasing.

170.13.3 Prepayment - when permitted

No prepayment of all or part of any goods or services shall be made unless provision for prepayment is included in the original purchase order or tender or unless authorized by the Manager of Purchasing.

170.13.4 Contracts - subject to the Construction Lien Act

In the case of contracts for construction or the supply of materials or services falling within the scope of the *Construction Lien Act*, the City Treasurer shall not make payment without the approval of the City Solicitor or designate.

Article 14 DETERMINING REQUIREMENTS

170.14.1 Standardization

The Manager of Purchasing shall conform to good material management practice by simplifying and standardizing, wherever possible, like requirements for different departments. Every effort will be made by the Manager of Purchasing to reduce the types and kinds of goods used by the City to the smallest in number and minimum investment. All departments will co-operate and assist in achieving this objective by considering equivalents or any alternatives suggested.

170.14.2 Specifications

The Manager of Purchasing and/or the end user shall be responsible for the preparation of formal specifications when required and to provide same to the Manager of Purchasing. Specifications shall be definitive as to quality and/or function. The Manager of Purchasing shall review all specifications to determine if they are in the appropriate form, clear, indicate the minimum acceptable quality level, are commercially practical and in sufficient generic form to ensure competitive bidding.

170.14.3 Design and development service

Suppliers or potential suppliers shall not be requested to expend time, money or effort on design or in developing specifications or otherwise help define a requirement beyond the normal level of service expected from suppliers. Should such extraordinary services be required, the Manager of Purchasing will be advised. There being no alternative but to request such services, the company providing same shall be compensated at a pre-determined fee. The resulting specifications shall become the property of the City for use in obtaining competitive bids.

Article 15 DISPOSAL OF SURPLUS

170.15.1 Surplus - obsolete materials - listed - disposal

Where any goods or personal property of the City are declared surplus to the Manager of Purchasing by a Department Head or designate on a surplus declaration form and can not be used by another City department, they shall be disposed of by public tender or public auction. If no bids are received, the Manager of Purchasing may dispose of the goods or personal property as deemed to be in the best interest of the Corporation. This Section shall not apply to goods or equipment traded in on new equipment or returned for credit to original sources of supply.

**Article 16
EXCLUSIONS**

170.16.1 Exclusions - expenditures

The expenditures listed in 'Schedule A' are excluded from the application of this Chapter.

**Article 17
PURCHASING BY-LAW CHANGES**

170.17.1 Chapter - review

The Manager of Purchasing will update this Chapter by bringing forward from time to time, amendments thereto.

170.17.2 By-law - previous

Purchasing By-laws 87-295, 88-138, 92-262, 93-150, 94-30, 95-170, 97-97, 97-154, and 97-140 are hereby repealed. By-law 2001-238, 10 December, 2001.

PURCHASING

SCHEDULE

Schedule 'A' - Exclusions

1. Petty Cash Items

2. Training and Education

- conferences and conventions
- courses, workshops and seminars
- memberships and subscriptions
- staff training and development

3. Refundable Employee Expenses

- advances
- meal allowances
- travel expenses
- hotel accommodations

4. Employer's General Expense

- employee, Councillor and Mayor's income including sick leave, severance and retiring allowances
- payroll deduction remittances
- employee benefit remittances
- honorariums
- licences (vehicle, elevator, radio, etc)
- debenture payments
- payments to local boards
- grants to agencies

PURCHASING

- real property including land, building, leasehold interests, easements, encroachments and licences
- investments
- bank charges
- mortgage/loan payments
- imprest account expenses
- property rentals
- refunds
- fees or charges payable to the federal or provincial government

5. Special Services

- legal settlements
- witness fees
- committee fees
- arbitrator fees
- appraisal fees
- real estate fees
- land transfer taxes
- Registry Office fees
- insurance claims
- audit fees
- revenue collected on behalf of a third party

PURCHASING

6. Utilities

- postage
- water, sewer and gas charges
- hydro
- telephone services
- cable services

7. Expenses related to an event, which will eventually be recovered in full by a third party.

8. Expenses related to partnerships that are primarily co-ordinated by volunteers.

9. Expenses related to other boards (example: the Centre in the Square and Kitchener Housing Inc.).

By-law 2001-238, 10 December, 2001; Schedule 'A'.