



THE CORPORATION OF THE  
TOWN OF ERIN  
By-Law #17 - 39

**A By-law to establish for the procurement policies and procedures  
for the acquisition of goods and services for the Town of Erin  
and to repeal 05-58 and 10-30**

**Whereas** pursuant to Section 270 of the Municipal Act, S.O. 2001, c. 25, as amended, states that Municipality and local Board shall adopt policies with respect to its procurement of goods and services; and

**And whereas** the Council for the Town of Erin recognizes its responsibility to provide for fair, transparent and accountable purchasing practices for the effective utilization and disposal of all its resources;

**Now therefore the Council of the Town of Erin hereby enacts as follows:**

1. That Appendix "1" attached is hereby enacted as the Town of Erin Procurement Policy and Procedures.
2. That By-Law 05-58 and By-Law 10-30 are hereby repealed.
3. That this by-law shall come into force on the day of its passing.

**Passed in Open Council on the July 11, 2017.**

**Mayor, Allan Ails**

**Clerk, Dina Lundy**

## Appendix 1

### PROCUREMENT POLICY AND PROCEDURES

#### 1. OBJECTIVES AND GOALS

##### 1.1 Objectives

The Municipal Act, 2001, c.25 Part VI, s.270 requires that a municipality shall establish policies with respect to the procurement of goods and/or services, with respect to:

- a) the types of procurement processes that shall be used;
- b) the goals to be achieved by using each type of procurement process;
- c) the circumstances under which each type of procurement process shall be used;
- d) how the integrity of each procurement process will be maintained;
- e) how the interests of the Municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- f) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
- g) any other prescribed matter.

##### 1.2 Goals

**Efficient/Effective Procurement:** To procure in the most efficient and cost effective manner goods and/or services and realize optimum quality, quantity, price, delivery and performance.

**Openness and Transparency** To encourage open competitive bidding for the acquisition or disposal of all goods and/or services based on a clear definition of the product or service required and a clear outline of the criteria used in the evaluation.

**Objectivity:** Procurement of goods and services will be approached in an unbiased way not influenced by personal preferences, prejudices or interpretations.

**Accountability:** Obligation to answer for procurement results and for the way that procurement responsibilities are delegated.

**Fairness:** The procurement policies and processes will be applied equally to all bidders.

##### 1.3 Accessible Standards for Customer Service

The Department Head/designate and the CAO are responsible to ensure that contractor(s)/suppliers are adequately trained in accordance with the Town of Erin's Accessible Customer Service Guide Book – Understanding Accessible Customer Service and that the following clause be added to all Town issued call for quotations, RFP's, call for tenders, or contracts:

###### **Accessibility for Ontarians with Disabilities Act, 2005**

In accordance with the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, the Town of Erin shall have regard for the accessibility for persons with disabilities in respect to goods and services purchased by the Town.

###### **Ontario Regulation 429/07 (Accessible Standards for Customer Service)**

In accordance with section 6 of Ontario Regulation 429/07, Accessible Standards for Customer Service, the contractor/supplier is responsible to ensure that all of its employees, volunteers and others for which the contractor is responsible who deals with members of the public are adequately trained as per the Town of Erin's Accessible Customer Service Guide Book – Understanding Accessible Customer Service.

All bids documents are required to include the following:

I/we, by our signature, certify that we are in full compliance with Section 6 of Ontario Regulation 429/07, Accessibility Standards for Customer Service made under the Accessibility for Ontarians with Disabilities Act, 2005.

I/We are able to provide written proof that, I, and my employees, agents, subcontractors and volunteers (if any) who deal with members of the public are adequately trained as required under the Act and that I/we shall keep records of the above mentioned training, including the dates on which the training is provided, the number of individuals to whom it was provided and shall provide documentation of the training to the Town of Erin upon request.

## **2. RESPONSIBILITIES AND AUTHORITIES**

Unless otherwise provided, the purchase of all goods and/or services shall be authorized in accordance with the provisions of Appendix A to this By-law.

It is the responsibility of each person, whether elected or appointed official, involved in the procurement process to understand this By-law and the meaning and intent of all sections contained in this By-law.

### **2.1 Finance Department**

The Finance Department maintains a centralized procurement function for the Municipality and has the following responsibilities:

- a. develops, implements and maintains administrative procedures of goods and/or services and provides advice and assistance to Council, the CAO, Department Heads and Staff regarding the procurement of goods and/or services;
- b. generates Purchase Orders (PO) and ensures adequate documentation and approval;
- c. when appropriate and feasible, standardizes and coordinates the procurement of goods and/or services for multiple service areas;
- d. acts as the Municipality's representative in the purchasing function in working with departments, vendors and suppliers;
- e. troubleshoots and assists departments and staff with purchasing related efforts;
- f. monitors purchasing activity for compliance with the Municipality's this By-Law;
- g. monitors and documents performance of vendors based on feedback from department representatives;
- h. oversees the tender, proposal, consultant selection and quote processes from inception through to completion;
- i. monitors adherence to the provisions of this By-law and the procedures adopted for its use; and
- j. monitors, reviews and manages contractual terms secured through the procurement process to ensure compliance with this By-law.

It is understood and agreed that purchasing must involve, and cannot function without, the understanding and co-operation of all individual employees and such understanding and co-operation is an integral part of each person's regular duties and responsibilities.

## **2.2 Director of Finance**

The Director of Finance shall have authority to administer this By-law and may establish procurement procedures consistent with this By-law to:

- a) delegate authority to review contracts and procurement processes;
- b) establish administrative procedures and policies for the implementation of this By-law; and
- c) establish standards for Bid Solicitations, Contracts and other documents.

## **2.3 CAO**

The CAO shall have authority to administer this By-law which includes but is not limited to:

- a) instruct Department Heads not to award contracts, and to submit recommendations to Council for approval, and may provide additional restrictions concerning procurement where such action is considered necessary;
- b) during the time that regular Council meetings are suspended, during a period of recess, or for an emergency, the CAO shall be authorized to award contracts as a result of a Solicitation that normally would require Council approval, provided that a report is submitted to Council, as soon as reasonably possible, setting out the details of any contract awarded pursuant to this authority; and
- c) delegate spending authority limits to staff in compliance with this By-law and all applicable policies.

## **2.4 Department Heads**

Department Heads, within authority limits as outlined in Appendix A, are responsible for and shall have the authority to:

- a) call, receive, open and review Bids within their spending thresholds as per Appendix A;
- b) request the Finance Department to issue a Purchase Order (PO) for goods and services valued at greater than \$5,000 including taxes and freight charges;
- c) provide suitable documentation according to processes as set out in this By-Law.
- d) assist the Finance Department with preparation of the terms and conditions of Bid Solicitations;
- e) review proposed Bid Solicitations to ensure clarity, reasonableness and quality and advise staff of suggested improvements;
- f) monitor the performance of Suppliers and provide feedback to the Finance Department;
- g) advise Finance Department before disposal of goods;
- h) act on behalf of the Municipality, and from time to time, other boards, agencies and municipalities, for the purposes of the joint purchase of goods and/or services;
- i) ensure open, fair and impartial purchasing processes for goods and/or services;
- j) ensure compliance with this By-law and advise the Finance Department when there has been non-compliance;
- k) develop co-operative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Municipality;
- l) identify Accessibility requirements which should be part of the procurement process, as noted in AODA Accessibility Requirements, if applicable;
- m) promote the standardization of goods and/or services, where such standardization demonstrates and supports the purposes, goals and objectives of this By-law; and

- n) Department Heads are authorized to sign contracts in accordance with the Appendix A and / or Council Approval.

Department Heads, along with the Director of Finance, may 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, and shall have the following specific responsibilities:

- a) ensure that all Contract terms and conditions comply with the Bid Solicitation;
- b) prepare all terms and conditions and specifications of Bid Solicitations;
- c) request issuance of Purchase Order (PO) for goods and services valued at greater than \$5,000 including taxes and freight charges;
- d) manage Contracts to ensure goods and/or services are received by the Municipality and comply with Contract terms and conditions;
- e) monitor all Contract expenditures and ensure that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
- f) monitor the performance of Suppliers and provide feedback to the Finance Department;
- g) implement financial controls that meet audit requirements of the Municipality to ensure that those responsible for requisitioning and purchasing goods and/or services are held accountable for their decisions;
- h) standardize the use of goods and/or services, where such standardization demonstrates and supports the purposes, goals and objectives of this By-law; and
- i) ensure that all goods and/or services purchased have been received and invoices coded in a timely fashion.

## **2.5 Municipal Employees with Prescribed Authority**

Each employee granted prescribed authority is responsible and therefore accountable when authorizing a purchase in the name of the Municipality, which constitutes a commitment by the Municipality to honour the purchase of goods and/or services from vendors.

Notwithstanding any other provision of this By-law, the following Awards require Council approval:

- i. For Capital projects, the recommended Award exceeds by 10% of the amount budgeted;
- ii. the authority to Award has not been clearly delegated to staff of the Municipality; or
- iii. the recommended Award is not the Lowest Compliant Bid for purchases over \$50,000.

Employees or officers of the Municipality identified in Appendix A 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 Award or Purchase and related documents have been prepared in a form that complies with this By-law.

## **2.6 Committees of Council**

A member of a Committee may purchase goods and services provided that, at its first meeting of every year, the Committee formally designates a member to authorize purchases and communicates the name to the Finance Department. The authorized Committee member will follow the Procurement By-Law and the Authority Limit for a Department Head as prescribed in Schedule A.

### 3. PROCUREMENT GUIDELINES

**Confidentiality-** There shall be no informal contact between Municipal staff or elected officials involved in the procurement process with potential suppliers during the evaluation period.

**Open Market Procurement** - Except as otherwise stipulated, any Procurement shall be made on a competitive basis, in keeping with accepted public procurement practices and in accordance with applicable federal, provincial and municipal laws.

**Splitting of Purchase Prohibited** -Where goods and/or services are required in connection with one project, all of those goods and/or services shall be included in determining the total cost for the purposes of this By-law and no requirement for Goods and/or services shall be divided to avoid any provision of this By-law.

**All Costs Considered** - All purchasing shall be completed in a manner that considers all factors in evaluating bid submissions from responsive and responsible bidders, rather than a manner that bases a decision solely on the lowest bid price including ongoing cost commitments. Dollar amounts shown in this By-law setting parameters for the procurement process, except as otherwise stated, shall be the total cost including applicable taxes and freight.

**Local Preference** - The following two legislative documents prohibit municipalities from adopting a Local Preference Policy:

- The Discriminatory Business Practices Act (R.S.O. 1990, Chapter D12), as amended; and
- The Canadian Governments implementation of the Agreement of Internal Trade.

The primary objective of the procurement process is to acquire Goods/Services at the lowest possible cost, consistent with the demands of suitability, quality, service, and delivery capabilities. If in the determination of the Finance Department, a competitive market exists, and two or more compliant Bids are received and are identical in price, and provided suitability, quality, service, and delivery are similar, then priority of acceptance may be made first for a local Bid, if any then, for a regional Bid, if any otherwise, the Finance Department, will proceed to procure 'best and final offers' [BAFO] from the Bidders/Proponents involved in order to break the tie.

**Aggregate Materials** - The Town of Erin is committed to responsible practices and aggregate materials that have been extracted in a socially and environmentally responsible manner. Where cost and availability are equivalent, Cornerstone Standards Council (CSC) Certification will be part of the evaluation criteria of bid documents to supply aggregate materials.

**Risk Management** - The Department Head and the Director of Finance and/or CAO shall select the appropriate means to guarantee execution and performance of a contract as set out in Section 6 of the By-Law. Means may include, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and/or holdbacks. Appropriate guarantees will be set out in the bid specifications or Bid Solicitation as required.

Prior to commencement of work and where deemed appropriate, evidence of insurance coverage satisfactory to the Finance Department must be obtained, ensuring indemnification of the Town of Erin from any and all claims, demands, losses, costs or damages resulting from the performance of a supplier's obligations under a contract. A certificate of insurance must be submitted through the Municipality's bidding system for approval, prior to commencement of any service or work.

WSIB Certificates of Clearance must be submitted through the Municipality's bidding system prior to the commencement of a project and must comply with Provincial regulations. Prior to final payment to a supplier, a WSIB Certificate of Clearance shall be obtained ensuring all premiums or levies have been paid to the Board to date.

#### **4. Bid Closing and Openings**

- a) Finance Department will determine appropriate bid closing and opening procedures.
- b) All bids with estimates exceeding \$50,000 will be opened at a public opening.
- c) Notwithstanding the provisions of these procedures, the Municipality shall have the right to reject the lowest or any bid at its sole discretion. The Municipality also reserves the right to reissue the bid document in its original format or modified as best suits the requirements of the Municipality.

#### **5. Bid Bond Deposit**

Bid deposits of no less than 10% shall be required to accompany all bid submissions except in special contracts or scope of work as deemed appropriate by the Finance Department and Department Head.

A bid deposit shall be provided in Canadian currency and one of the following formats:

- a) A bid bond or an agreement to bond issued by a bonding agency currently licensed to operate in the Province of Ontario naming The Corporation of the Town of Erin as the obligee.
- b) A certified cheque made payable to The Corporation of the Town of Erin.
- c) An irrevocable letter of credit naming The Corporation of the Town of Erin as the beneficiary.
- d) Money orders made payable to The Corporation of the Town of Erin.

All bid deposits must be original documentation, signed and sealed as appropriate. No faxed or photocopies will be accepted. The Municipality is authorized to cash and deposit any bid deposit in the Municipality's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid. The Municipality does not pay interest on any bid deposits.

#### **5.1 Bonding / Letters of Credit Requirements**

Performance, Labour and Material and/or Maintenance Bonds are required for all construction projects exceeding \$100,000.00 for 100% of the bid amount.

All bonds/letters of credit must be originals, signed and sealed. No faxed or photocopies will be accepted.

Bonds shall be issued by reputable Bonding Companies licensed to carry on business in Ontario. Bid bonds must be irrevocable and open for bid acceptance for at least ninety (90) days from the date of bid opening.

#### **6. INSURANCE**

The standard insurance minimums are as follows:

- \$2 million – general liability policy
- \$2 million – automobile liability policy
- \$2 million – homeowners (e.g. for rental of facilities)
- \$5 million – general liability and automotive liability policies – for contract work done for most Roads, Water and Environmental projects
- \$2 million – professional errors and omissions liability Builder's Risk – the amount of the project cost

Bid documents must clearly indicate insurance requirements to be provided by the successful bidder.

The successful bidder must furnish the Town at his/her cost a "certified copy" of a liability insurance policy covering public liability and property damage for no less than the minimum

amounts stated in section 5 to the satisfaction of the Municipality and in force for the entire contract period. The policy must contain:

- a) A "Cross Liability" clause or endorsement;
- b) An endorsement certifying that **The Corporation of the Town of Erin** and the successful bidder are included as an additional named insured;
- c) An endorsement to the effect that the policy or policies will not be altered cancelled or allowed to lapse without thirty days prior written notice to the Town of Erin.

Contractor's Liability Insurance Policy shall not contain any exclusions of liability for damage, etc. to property, building or land arising from:

- a) The removal or weakening of support of any property, building or land whether such support is natural or otherwise.
- b) Occupational Health and Safety Act
- c) In order to avoid any misunderstanding as to the nature of the work to be performed herein, the Contractor, by executing this Contract unequivocally acknowledges that he is the Constructor within the meaning of the Occupational Health and Safety Act and amendments thereto.

Contractors and subcontractors may be required to:

- a) Demonstrate establishment and maintenance of health and safety program with objectives and standards consistent with applicable legislation and with the Municipality's health and safety policy and requirements.
- b) Ensure that workers in their employ are aware of hazardous substances that may be in use at place of work and wear appropriate personal protective equipment requirements.

W.S.I.B. Independent Operator Status Before Awarding a Contract

The Contractor must show proof of current registration and proof of good standing with the Workplace Safety Insurance Board by providing a W.S.I.B. Independent Operator Status to the department contracting the service. Project contractors are to provide proof of good standing with the W.S.I.B.

## **7. PROCUREMENT PROCEDURES**

### **7.1 Requirement for Approved Funds**

The exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

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:

- a) the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget;
- b) the goods and/or services will continue to be required in subsequent years and, in the opinion of the Department Head or Designate, the required funding can reasonably be expected to be made available; and
- c) 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.

### **7.2 Approval Guidelines**

Formal approval of the annual budget establishes financial approval to proceed with purchases, subject to any scheduling or priority considerations as may be deemed necessary by Council and in accordance with Appendix A of this By-Law.

## **8 PROCUREMENT TYPES**

Any person acquiring goods/services on behalf of the Town, shall do so in accordance with this By-law.

Method of Solicitation -The method of solicitation may take the form of one of the



following:

- Non-Competitive Process (Purchasing Card or Low Dollar Value Purchases)
- Request for Quotation (RFQ) - Information and Formal Quotations
- Request for Tender (RFT)
- Request for Proposal (RFP)
- Request for Pre-Qualification (RFPQ)
- Request for Information (RFI)
- Expression of Interest (EOI)

### **8.1 Purchasing Card (PCard) Procurement**

The Purchasing Card was established as an efficient and effective process to purchase goods and services. Each purchase shall adhere to Purchasing Card Policy, spending authority limits as per Appendix A and will follow Procurement Process established in this By-law.

### **8.2 Low Dollar Value Purchases – Less than \$5,000**

A Department Head or Designate may procure goods and/or services if the following criteria are met:

- the estimated total value of the goods and/or services is less than \$5,000, including applicable taxes and freight;
- it can be demonstrated the purchases were made at Fair Market Value;
- there is a Direct Invoice from the Supplier approved and signed by the initiating Department Head or Designate.

### **8.3 Informal and Formal Quotations**

#### **Informal Quotations – Between \$5,001 - \$24,999**

Where the requirement for Goods and/or services can be specified and it is estimated that the total value is **\$5,001** or more, but less than **\$24,999**, including applicable taxes and freight, the initiating Department Head or Designate shall solicit and review a minimum of three written, fax, internet or email quotes from different bidders. All bidders must receive the same bid criteria and instructions. Informal quotes shall be completed on the Informal Quotes Template as identified in Procurement Procedures. If the pricing is within the approved budget, the Department Head will request the Finance Department to issue a PO and attach copies of all the quotations.

A Request for Quotation may be called for lesser amounts if deemed beneficial by the Department Head or CAO and/or Director of Finance. If only one bid is received, the Municipality may exercise the right to cancel.

Department Heads shall receive informal quotes either via email or hard copy. A copy of the informal quote shall be provided to the Department Heads support staff for document retention.

#### **Request for Formal Quotations (RFQ) - Between than \$25,000 - \$49,999**

Where the requirement for goods and/or services can be specified and is estimated equal to or greater than a value of **\$25,000**, but less than **\$49,999**, including applicable taxes and freight, the initiating Department Head shall issue a Request for Quotation, which includes required specifications, through Bids and Tenders.

Requests for Quotation shall be called in accordance with this By-law and require a reply by a designated day and time as identified on Bids and Tenders. An

officer of the bidding company must sign the reply.

Sealed Bids are opened in the presence of a Department Head and Representative from the Finance Department. Each sealed Bid received in response to a formal Request for Quotation is reviewed for completeness and accuracy by the initiating Department Head. The Department Head in consultation with the Finance Department will select the successful Bid.

If the selected Bid is in accordance with the specifications and terms and conditions of the Request for Quotation, and is within 10% of budget, the Department Head may proceed with the purchase as approved by the CAO.

Copies of all the invoices with associated GL numbers are to be sent to the Finance Department for electronic filing.

#### **8.4 Request for Tender (RFT) – Over \$50,000**

For purchases with a total value greater than \$50,000, including applicable taxes and freight, a Request for Tender (RFT) shall be issued, provided that:

- two (2) or more sources are considered capable of supplying the goods and/or services;
- the goods and/or services are adequately defined to permit the evaluation of Tenders against clearly defined criteria; and
- the Department Head, whose budget provides for the procurement, shall provide the specifications, provisions, plans and relevant information and supplemental general conditions for the Purchase.

All RFTs shall be called, opened and awarded in accordance with this By-law and include terms and conditions for the Bid Solicitation. Bids in closed envelopes will be opened in public.

All RFTs shall be advertised in accordance with this By-law, except where a Request for Pre-Qualification (RFPQ) has previously been conducted. In this instant, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.

All Purchases shall be authorized and executed in accordance with Appendix A.

If the procurement is within the approved budget, is of a value greater than **\$50,000 up to \$100,000** and there are no challenges to the process by interested parties, the Department Head may proceed with the procurement following approval from the CAO.

For procurements with a total value **greater than \$100,000** and with no challenges to the process by interested parties, the Department Head will prepare a report to Council for approval to proceed.

#### **8.5 Request for Proposal (RFP)**

A Request for Proposal (RFP) shall be issued when one or more of the following criteria applies:

- a) the Purchase is required as a result of a particular problem, requirements or objective;
- b) the selection of the Supplier depends more upon the effectiveness of the proposed solution, rather than the price alone; and
- c) the precise Goods and/or services, or the specifications thereof, are not known or are not definable and it is expected that Suppliers will further define them.

Where it is not possible to prepare precise specifications, the Department head will issue an RFP. An RFP will include evaluation criteria and weighting such as, but not limited to, qualification, experience, strategy, approach, methodology, facilities and equipment.

The document shall clearly distinguish those requirements that are deemed mandatory or non-mandatory and shall clearly outline how these items will be evaluated. All RFPs shall be called, opened and awarded in accordance with this By-law.

RFPs will be submitted as specified in the Bid Solicitation. No exemptions will be permitted.

All RFPs will be evaluated based on the evaluation criteria and process outlined in Procurement Process established by the Town.

RFPs shall be advertised in accordance with this By-law, except where a list of pre-qualified Suppliers has been compiled in accordance with this By-law.

If the Procurement is within the approved budget and there are no challenges to the process by interested parties, the Department Head may proceed with the purchase.

All Purchases shall be authorized and executed in accordance with Appendix A.

## **8.6 Pre-Qualifications and Expressions of Interest**

### **8.6.1 Request for Pre-Qualification (RFPQ) and Vendor of Record**

Department Heads may conduct a Request for Pre-Qualification (RFPQ) to develop a list of Suppliers (Vendor of Record (VOR)) that may be eligible to submit a Bid on subsequent Bid Solicitations or to develop a roster in accordance with this By-law.

If purchases from the same supplier exceed the aggregate \$25,000 or more per year, Department Heads are required to follow the RFPQ process for the supplier to become a vendor of record and invoices will not be paid until such process has been completed. The Finance Department will monitor vendor activity and advise Department Heads before the \$25,000 limit is reached.

Pre-qualification may be considered in the following circumstances:

- a) the work will require substantial project management by the Municipality and could result in a significant cost to the Municipality if the Supplier is not appropriately experienced;
- b) the goods and/or services to be purchased must meet national safety standards;
- c) the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials or financial requirements;
- d) miscellaneous repairs and services as required by the Municipality such as plumbers, electricians, and drywall contractors;
- e) there could be substantial impact on the Municipality's operations if the work is not satisfactorily performed the first time; or
- f) any other circumstances deemed appropriate by the Finance Department or respective Department Head.

An RFPQ shall be provided to potential Suppliers establishing the criteria for pre-qualification which may include, but are not limited to:

- a) experience on similar work (firm and staff assigned);
- b) references provided from other customers for similar work;
- c) verification of applicable licenses and certificates;
- d) health and safety policies and staff training; and
- e) financial capacity.

Supplier submissions will be evaluated and ranked. A short list of pre-qualified Suppliers may be invited to participate in the second step of the two-step Procurement Process, being a Request for Proposal or a Request for Tender.

An RFPQ is not a legal offer but only an invitation for Suppliers to make offers to the Municipality.

The VOR list will be updated and reviewed every three (3) years.

All RFPQs shall be conducted in accordance with submission instructions in the Bid Solicitation and this By-law.

### **8.6.2 Request for Expressions of Interest**

Department Heads or Designates may conduct a Request for Expressions of Interest (RFEOI) for the purpose of determining the availability of Suppliers, compiling a list of Suppliers or determining potential scope of work. An RFEOI may be used as a specific pre-condition of any method of Procurement used by the Municipality.

The receipt of an Expression of Interest by the Municipality does not create any obligation between the potential Supplier and the Municipality.

### **8.7 Request for Information**

A Request for Information (RFI) can be used to identify supplier interest and measure if there is enough interest to justify a full Request for Proposal Competition.

An RFI requests detailed information such as, but not limited to, company background, interested parties, what they can offer and what they can do for the Municipality.

A reply to the RFI is required by a designated date and time to the Department Head who initiated the request and signed by an Officer authorized to legally bind the Supplier. Any resulting bid document will be processed and advertised in accordance with this By-law.

### **8.8 Construction Tender/Bid Calls After Budget Adoption**

Following the adoption of the budget by Council and the receipt of any necessary approval from outside agencies, the Department Head may call tenders for budgeted Municipal construction projects and the acquisition of equipment.

### **8.9 Conditional Tender/Bid Before Budget Adoption**

The Department Head may obtain, prior to the adoption of the budget by Municipal Council, Sealed Bids for additional and replacement equipment, provided that the documents include a clause specifically stating that the acceptance of a bid and placing of the order is subject to budget approval by Municipal Council and the items specified are subject to change in quantity and/or deletion.

### **8.10 Election Recess Procedures**

Where a matter, which would otherwise require Council approval pursuant to this By-law, but approval cannot be granted because approval is required:

- a) prior to the next regular scheduled Council meeting;
- b) during the recess required to conduct municipal elections; or
- c) there is a failure to obtain a quorum at a Council meeting where a contract approval was on the agenda for such a meeting; then

The CAO may award contracts which are the result of the circulation of a Tender/Quotation or RFP, where the recommended Bid is that of the lowest responsive

Bidder (all costs considered) or where the recommended Proposal is that of the highest ranked scoring Bidder, providing in each case that the price does not exceed by 10% the approved budget.

The Department Head will report all such awards following the specific recess period at the first possible Council meeting on the contracts awarded during the specific recess period. Council will not vary any action of the contract awards made in such cases.

### **8.11 Co-operative Bid Calls**

Notwithstanding anything else contained in this By-law, the Department Head may join or participate with other units of government, as a named agency, including local boards, commissions and agencies, in co-operative purchasing and bulk buying of goods and/or services, if it is in the best interests of the Municipality to do so.

### **8.12 Special Circumstance Purchases**

Purchases that are required to respond to a Special Circumstance shall be authorized in accordance with Appendix A. Such purchases are exempt from the processes outlined under Procurement Types. However, these processes may be followed where practical to do so, and in all instances must be reported to the CAO on the following business day.

Contracts required to effect Special Circumstance purchases shall be signed in accordance with the Document Execution Authorities set out in Appendix A.

### **8.13 Emergency**

Where a situation arises requiring immediate procurement of goods and/or services essential to prevent serious delays in the work of any department or which might involve danger to life, health or safety of employees or the public, or to prevent damage to property.

A Department Head may purchase the required goods and/or services notwithstanding any other provision in this policy. The CAO must be informed of this situation.

Emergency purchases will have regard to the provisions of this policy and the procurement procedures, and will be handled as swiftly and cost effectively as possible.

## **9 SINGLE SOURCE PURCHASES**

Bid Solicitations are not required for Single Source Purchases, provided any of the following conditions apply:

- a) the compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration;
- b) there is an absence of competition for technical reasons and the goods and/or services can only be supplied by a particular Supplier and Sole Source is being recommended;
- c) an unforeseeable situation of urgency exists and the Goods and/or services cannot be obtained in time by means of open procurement procedures;
- d) the Municipality has a rental contract with a purchase option and such purchase option is beneficial to the Municipality;
- e) 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 Municipality;
- f) there are no bids in response to a Bid Solicitation; and/or
- g) the Supplier is selected from a roster for Professional Services that has

been developed in accordance with this By-law.

All Purchases and related contracts shall be authorized in accordance with Appendix A.

## **10 DIRECT NEGOTIATION**

Notwithstanding that Direct Negotiation may be a component of another procurement process, Direct Negotiation may be used for Purchases of goods and/or services when any of the following criteria apply:

- a) the required goods and/or services are in short supply;
- b) competition is prevented due to the existence of any patent right, copyright, technical secret or control of raw material;
- c) a Sole Source is being recommended;
- d) two (2) or more identical Bids are received and suppliers are informed in advance that a direct negotiation is occurring;
- e) the Lowest Compliant Bid received meeting all mandatory specifications exceeds the Budget amount;
- f) the extension of an existing Contract would be more effective;
- g) only one (1) Bid is received in response to a Bid Solicitation;
- h) a roster for Professional Services has been developed in accordance with this By-law; and/or
- i) there is Council authorization to do so.

All Purchases and related contracts shall be authorized in accordance with Appendix A".

## **11 LEASING**

In certain circumstances, it may be economically advisable for the Municipality to enter into a financing lease to acquire the rights to use capital property and equipment rather than an outright purchase.

For any lease over \$100,000 will be circulated to Council for approval by the Department Head, and/or Director of Finance.

## **12 VENDOR PERFORMANCE**

The Department Head shall monitor and document the performance of suppliers providing goods and/or services with a value greater than \$25,000 annually to the Finance Department. Monitoring of poor performance of a vendor will be documented using Appendix C and Department Head shall advise the Finance Department in writing when the performance of a Supplier has been unsatisfactory (overall rating of less than 70%), and the vendor will be advised as such.

Such records will kept for 3 years, and the Finance Department shall advise Department Heads prior to the acceptance of any Bid Solicitation. A Bid received from a vendor whose vendor performance form rating is less than 70% may not be accepted, unless otherwise approved by Council.

## **13 UNSOLICITED PROPOSALS**

Unsolicited proposals received by the Municipality shall not be reviewed by any Municipal employee.

## **14 REPORTING**

Reports to Council regarding procurement are required when:

- a) a purchase is greater than those identified by Appendix "A";
- b) the acquisition exceeds the budgeted amount by 10%;
- c) less than three Bids were received, if required;
- d) the recommended Bid does not meet major specifications;
- e) procurements required without a competitive bidding process;
- f) before making unspecified budget expenditures;
- g) steps taken when accessibility criteria/features during procurement practices are not realistic or doable; and/or
- h) the Finance Department conducts performance evaluations for poor performing professional/consulting services.

The report will be initiated by the requisitioning Department Head and reviewed by the Finance Department. The report will include background information regarding the purpose for the procurement, the circumstances requiring Council's consideration for the procurement, and, if possible, a recommendation or recommended options for Council's consideration.

Upon approval by Council, the Department Head shall authorize the purchase and/or a Contract shall be executed as authorized by Council.

## **15 ADVERTISING**

Advertising for tenders, quotations or proposals estimated to be equal to or exceed \$25,000.00, including applicable taxes and freight, shall be posted on the Municipal website. They may also be advertised in local newspapers that have general circulation within the municipality and/or commercial/trade publications as deemed appropriate by Finance and Department Heads. The ability of the Municipality to cancel Request for Tenders/Quotations/Proposals will be explicit in all the forms where it was originally advertised.

## **16 DISPOSAL OF SURPLUS GOODS**

Where any goods or equipment defined as a capital asset are considered to be obsolete or un-repairable, the Department Head shall notify the Finance Department and issue a report declaring the item(s) to be surplus, except where the replacement of goods has already been approved as a trade in as part of the procurement process.

Surplus items may be disposed of through formal auction, internet offering, tender or quotation or trade-in, whichever is in the best interest of the Municipality at the discretion of the Department Head, as approved by the Director of Finance to ensure all transaction meet pecuniary interest legislation.

All assets shall be accepted as is or where is and without warranty or guarantee. The new owner shall assume all risk and expense associated with these assets.

Where the item has limited market value, the Department Head may, to the benefit of the Municipality, dispose of the item in a manner other than the ones listed above.

Any revenue from the sale of scrap material or other items shall be credited to the appropriate account by the Finance Department.

## **17 CONFLICT OF INTEREST GUIDELINES**

No elected official or employee, nor any Municipality of which an elected official or employee has an interest, shall offer any Bid, or otherwise sell any goods or services to the Municipality.

No elected official or employee may purchase goods and/or services for personal use through the Municipality, subject to any other Municipal By-law.

No elected official or employee, nor any Municipality of which an elected official or employee has an interest, shall discuss a Bid Solicitation with a person, or any officer, employee or agent of the person who has submitted a Bid to the Municipality, unless the bid call has been awarded or for the purpose of receiving clarification.

No employee shall purchase or offer to purchase, on behalf of the Municipality, any goods and/or services, except in accordance with this By-law.

No employee shall bid on the sale of goods except those disposed of at arm's length by public auction, internet auction, tender or quotation.

All consultants (e.g., architects, engineers, etc.) retained by the Municipality shall disclose to the Municipality, prior to accepting an assignment, any potential conflict of interest. If such a conflict of interest does exist, the Municipality, as directed by the Department Head may, at its discretion, withhold the assignment from the consultant until the matter is resolved. And furthermore, if during the conduct of an assignment with the Municipality, a consultant is retained by another client giving rise to a potential conflict of interest, then the consultant shall so inform the Municipality.

## **18 CODE OF ETHICS**

The Municipality's "Employee Code of Ethics" section in the Personnel Procedural Policy and Guidelines, the code of purchasing ethics, established by the National Institute of Government Purchasing (NIGP) and the Ontario Public Buyers Association (OPBA), shall apply to all Finance Department, Department Heads and designates involved in the procurement process.

## **19 LEGAL CLAIMS**

No tender, proposal or quotation will be accepted from any company or subsidiaries or sub-contractors or individual who have a claim or instituted a legal proceeding against the Municipality or against whom the Municipality has a claim or instituted a legal proceeding with respect to any previous contract, without prior approval by Council.

## **20 ACCESS TO INFORMATION**

The disclosure of information received relevant to the issue of bid solicitations or the award of contracts emanating from bid solicitations shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended.

## **21 GOODS AND SERVICES EXEMPT FROM PROCUREMENT BY-LAW**

The procurement methods described in this By-law do not apply to the following goods and services:

- a. The Town Clerk has the authority to purchase goods, services and equipment considered necessary or advisable to carry out the requirements of the



Municipal Elections Act, R.S.O. 1996. The Town Clerk shall whenever possible be guided by the provisions of this By-Law and the Procurement Policy and Procedures.

- b. Councilor/Employee Training and Education, including:
  - i. Registration, accommodation and tuition fees for conferences, conventions, courses and seminars;
  - ii. Magazines, books and periodicals;
  - iii. Memberships; and
  - iv. Staff development or workshops.
  
- c. Refundable Councilor/Employee Expenses, including:
  - i. Meal allowances;
  - ii. Travel; and
  - iii. Miscellaneous Expenses.
  
- d. Employee/Employer's General Remittances/Expenses, including:
  - i. Payroll Deduction Remittances;
  - ii. Council/Committee/Employee Remuneration;
  - iii. Licenses/Memberships;
  - iv. Debenture Payments;
  - v. Agencies;
  - vi. Damage Claims; and
  - vii. Insurance Premiums.
  
- e. Other, including:
  - i. Wellington County/School Boards/Conservation Authority Levies;
  - ii. Utilities;
  - iii. Postage;
  - iv. Bailiff or collection agencies;
  - v. Provision of professional and skilled services to individuals as a part of approved budgets;
  - vi. Licensing; and
  - vii. Any payments required to be made by the Municipality under statutory authority.

## **22 REAL PROPERTY**

The disposal or sale of real property shall be governed by Sale of Real Property By-Law and the Municipality's Council in governing the sale of real property, and any amendments thereto. The purchase of construction material and/or services used to build, renovate, repair or improve Real Property shall be governed by this By-law.

## **23 ADMINISTRATION**

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

## **24 PROCUREMENT BY-LAW REVIEW**

The Finance Department, in consultation with the CAO and Department Heads, shall conduct a detailed review of this By-law on an as-required basis, but no longer than five years following its passage.

The review is to take into consideration current and future professional practices, industry standards, market conditions, Federal/Provincial Government directions/policies, technological developments and advancements and the impact that any recommended changes may have on potential suppliers to the Municipality.

The review findings are to be reported to Council for consideration.

## **25 PROCUREMENT PROCEDURES**

Procurement procedures developed by the Finance Department and approved by the CAO, are to be used as a guideline in compliance with this By-law and any related legislation.

## **26 PROCUREMENT DOCUMENTATION/FORMS**

Conflict of Interest Guidelines will be included in all competitive bidding documents. A Privacy Statement, as required under The Municipal Freedom of Information and Protection of Privacy Act, will be included in all competitive bidding documents.

**APPENDIX A – PURCHASING AUTHORITIES**

<b>Method of Procurement</b>	<b>Dollar Range **</b>	<b>Purchasing Authority*</b>
Low Value Purchase	Up to \$5,000	Department Head
Informal Request for Quotation (3 quotes)	Between \$5,000 to \$9,999	Department Head
Informal Request for Quotation (3 quotes)	Between \$10,000 to \$24,999	CAO
Vendor of Record process	Greater than \$25,000 purchases in aggregate	CAO
Formal Quotes/Tenders Direct Negotiation/Irregular Result  <i>(Public advertising and posted on Town website)</i>	Between \$25,000 to \$49,999	CAO
Request for Quotation/Tender (formal bid solicitation) Request for Proposal Request for Information Tenders Direct Negotiation/Irregular Result  <i>(Public advertising, posted on Town website and open bids publicly)</i>	Between \$50,000 to \$99,999	CAO
Request for Tender (formal bid solicitation) Request for Proposal Direct Negotiation/Irregular Result  <i>(Public advertising, posted on Town website and open bids publicly)</i>	Greater than \$100,000	Council

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

\*\*Dollar Ranges include taxes and freight

NOTE: Purchase Order requests to Finance Department for any purchase greater than \$5,000

## APPENDIX B

### DEFINITIONS

The words and phrases listed hereunder when used in this By-law and the appendices hereto shall have the following meanings assigned to them:

**"Accessibility"** is a general term used to describe the degree of ease that something (e.g., device, service, and environment) can be used and enjoyed by persons with a disability. The term implies conscious planning, design and/or effort to ensure it is barrier-free to persons with a disability, and by extension, highly usable and practical for the general population as well;

**"Accessible"** is that which can be easily reached or obtained; a facility that can be easily entered; posing no obstacles to persons with a disability;

**"Agreement or Contract"** means a legal document that binds the Town of Erin and all other parties.

**"Asset"** means physical property (e.g. furniture, equipment, vehicle) other than real estate or natural resources owned by the Municipality and possibly having a permanent asset label affixed;

**"Asset Disposal Form"** means a document used to track Disposal of Assets;

**"Authority or Authorized"** means the right to conduct the subject task as directed by Council and delegated through the Office of the Chief Administrative Officer to Department Heads (or Director of Finance);

**"Authorized Purchases"** are those purchases that have prior approval of Council either through resolution or through the approval of the annual Departmental budget (budget process and adoption) but not per line items within the budget.

**"Award"** means authorization to proceed with the Purchase from a chosen Supplier;

**"Barrier-free"** refers to a quality or characteristic of environments, policies, processes or practices that enables the full participation by all members of society;

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

**"Bid Approval Report"** means a completed Purchase Requisition, Expenditure Authorization, or Council Resolution which authorizes the purchase of Goods and/or services and is executed by the Purchasing Authorities as set out in Appendix "A";

**"Bid Bond"** means a cash deposit issued as part of a bidding process by the contractor to the Municipality, to attempt to guarantee that the winning bidder will undertake the contract under the terms at which they bid. The bid bond assures and guarantees that should the bidder be successful, the bidder will execute the contract and provide the required surety bonds.

**"Bid Call Document"** means the solicitation document in the form of an Informal Quick Bid (Request for Quotation (RFQ)) or Quick Bid Request for Proposal (QBRFP), Request for Tender (RFT), Request for Proposal (RFP) or Sale(s).

**"Bid Solicitation"** means a formal request for Bids including a Request for Expression of Interest; Request for Information; Request for Pre-Qualification; Informal Request for Quotation; Request for Quotation; Request for Proposal or Request for Tender;

**"Blanket Order"** means a contract for the purchase of Goods and/or services which will be required frequently or repetitively, and which establishes prices or a method for determining prices, terms and conditions and the period of time during which a vendor agrees to provide Goods and/or services to the purchaser upon the purchaser's demand in accordance with said prices, terms and conditions.

**"Budget"** means the budget or portion of the budget approved by Council;

**"Chief Administrative Officer" or "CAO"** means the Chief Administrative Officer of the Municipality;

**"Cheque"** means a written or electronically produced cheque in an approved format and duly authorized to obtain Goods and Services.

**"Clerk"** means the Clerk of the Municipality or Deputy Clerk;

**"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 where a personal, business or other interest of an employee of the Municipality is in conflict with the interests of the Municipality, and includes, but is not limited to:

- a) the giving or receiving of a direct personal gain or benefit, or a direct advantage or privilege, by any person or business that offers Goods and/or services to the Municipality;
- b) a direct interest in any business that provides Goods and/or services to
- c) the Municipality;

**"Construction"** means the construction, reconstruction, demolition, repair or renovation of a building, structure or other engineering or architectural work. It 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;

**"Municipality"** means The Town of Erin;

**"Council" or "Municipal Council"** means the Council of the Town of Erin;

**"Credit Card"** means a credit card that can be used by Authorized Employees of the Municipality to purchase Goods and/or services in accordance with this By-law.

**"Department"** means any Department of the Municipality including any division within a Department;

**"Department Head"** means the Director or the Manager of the Department making the Purchase.

**"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 Finance.

**"Direct Negotiation"** means a non-competitive procurement method and refers to the negotiation of an agreement for the purchase of Goods and/or services where there is no open competition among or between Vendors;

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

**"Disposal Methods"** means the following methods by which an Asset, which has been determined to be Obsolete, Scrap or Surplus, may be disposed of through:

- a) On-line public auction;
- b) Public Auction;
- c) Sealed Bid;
- d) Trade-in on replacement Asset;
- e) Direct sale; or
- f) Donation.

**"Emergency"** means an event that occurs, which in the opinion of the Chief Administrative Officer or designate, requires immediate repair or replacement of equipment, services or facilities in order to maintain a required public service or to prevent danger to life, limb or property within the Town of Erin.

**"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;

**"Goods and Services"** means all supplies, labour, materials or equipment professional and consulting services and related procurement services. This may include installation, training, inspection, maintenance and repairs, and leases, but does not include land purchases or sales.

**"Insurance"** is the amount and type of insurance coverage required by the Town of Erin, to the satisfaction of the Director of Finance. Evidence of adequate insurance coverage will be by certified documents issued by an insurance company licensed to operate in the Province of Ontario, certifying that the bidder is insured in accordance with the Municipality's insurance requirements.

**"Irregular Result"** means the occurrence or likely occurrence in connection with any method of purchase where competitive bids or proposals are submitted, of any of the following:

- a. two or more identical Compliant low bids or proposals have been received;
- b. the lowest Compliant bid or proposal exceeds the estimated cost or budget allocation;
- c. all bids or proposals received are not Compliant; or
- d. for any reason the award of the contract to or the purchase from the lowest Compliant bidder or proponent is procedurally inappropriate or not in the best interests of the Municipality.

**"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 Municipality with the desired Goods and/or services at the lowest cost;

**"Mayor"** means the elected Mayor of the Municipality.

**"MFIPPA"** means Municipal Freedom of Information Protection & Privacy Act

**"Negotiation"** means a procurement method whereby the Municipality may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract;

**"Obsolete"** means outdated and/or not economically feasible for upgrading/repair;

**"Open Market Procurement"** means a competitive method of purchasing goods and/or services where vendors are given an equal opportunity to submit Bids in accordance with this By-law.

**"The Finance Department"** means the department that is responsible for the Municipality's centralized procurement function and is hereby responsible for ensuring that the procurement by-law, policies and procedures are consistently applied in the Municipality and who serves as a resource to Departments in support of the procurement function.

**"Professional/Consultant/Consulting Services"** means those services requiring the skills of professionals for a defined service requirement, including but not limited to:

- a) architects, engineers, designers, surveyors, geoscientists, project managers, consultants, auditors, accountants, medical professionals and legal counsel/advisors;
- b) firms or individuals having specialized competence in environmental, planning or similar disciplines; and
- c) software, graphic design and web-design consultants and any other persons providing similar services.

**"Proposal"** means an offer to supply Goods and/or services on which end results are outlined but no detailed specifications are given to the Bidders as to the Goods and/or services or how the work is to be performed, through a Request for Proposal.

**"Purchase"** means to acquire Goods and/or services by purchase, rental, lease or trade, including Construction;

**"Purchasing"** or procurement means the process for obtaining goods and/or services;

**"Procurement"** or purchasing means the process for obtaining goods and/or services;

**"Quotation"** means a written request for vendor bids for the supply of Goods and/or services of which include price, terms of sale and description of Goods and/or services offered by a Supplier;

**"Request for Expression of Interest"** means a request by the Municipality seeking responses from potential Vendors for the purpose of determining the interest of the marketplace in providing Goods and/or services considered to be procured by the Municipality.

**"Request for Information"** means a request by the Municipality seeking responses from potential Vendors for the purpose of gathering information from the marketplace to provide a scope of work or services considered to be procured by the Municipality.

**"Request for Prequalification"** means a request by the Municipality preceding a Request for Proposal, Request for Quotation or a Request for Tender seeking submissions from potential Vendors where it is deemed that the nature and

complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified Vendors.

**"Informal Request for Quotation"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or services under \$25,000 to obtain low dollar value of goods and services expeditiously and cost

**"Request for Quotation"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or services with a value not exceeding \$100,000, excluding taxes, whenever the requirements can be precisely defined. The expectation is that the lowest Bid meeting the requirements specified in the Request for Quotation, would be accepted, subject to any other provisions of the contract documents and this By-law.

**"Request for Proposal"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or services of a unique or complex nature where all or part of the requirements cannot be precisely defined. The expectation is that the proposal offered by the highest ranked proponent resulting from an evaluation and meeting the requirements specified in the Request for Proposal, would be accepted, subject to any other provisions of the contract documents and this By-law.

**"Request for Tender"** means a request by the Municipality seeking submissions from potential Vendors to obtain Goods and/or services with a value greater than \$100,000, excluding taxes, whenever the requirements can be precisely defined. The expectation is that the lowest Bid meeting the requirements specified in the Request for Tender, would be accepted, subject to any other provisions of the contract documents and this By-law.

**"Requisition"** includes both any document, whether electronic or printed, prescribed for use in initiating the purchase of required Goods and/or services and the activity of initiating the purchase of required Goods and/or services. "Requisitioning" and "requisitioned" shall have similar meanings.

**"Responsive and Responsible Vendor"** means one who complies with the provisions of the bid solicitation, including specifications, contractual terms and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed contract based on reputation, references or performance on previous contracts, and adequate financial and other resources.

**"Scrap"** means having no value;

**"Sealed Bid"** means a Bid submitted in a sealed envelope to a specified location, by a specified date, at a specified time;

**"Sealed Tender"** means a Sealed Bid that contain an offer in writing to execute some specified services or to supply certain specified goods for a certain price provided in response to a publicly advertised Request for Tenders.

**"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 or Sole Sourcing"** means a non-competitive acquisition from a specific supplier, even though there may be more than one supplier capable of delivering the same goods or services, or a non-competitive acquisition where there is only one supplier for the source of the goods or services, due to reasons set out in



Part 6 of this By-law. "Single Source" and "Sole Source" have similar meanings.

**"Special Circumstance"** means:

- a. 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 of which may include any Provincial Orders;
- b. an event that, unless immediately addressed, is likely to cause significant loss or damage to property and/or the environment;
- c. an event that has disrupted any essential service that needs to be re-established without delay; or
- d. an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.8, 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 Goods"** means any items no longer having any use to the Municipality or in excess of the needs of the Municipality, including, but not limited to, obsolete supplies, scrap materials and vehicles excluding real property;

**"Tender"** means a written detailed offer from a Supplier to supply Goods and/or services to the Municipality;

**"Director of Finance"** means the Director of Finance of the Town of Erin.

**"Vendor"** means an individual or organization offering Goods and/or services including, but not limited to, contractors, consultants, suppliers and service organizations.

## APPENDIX C - VENDOR PERFORMANCE

### TOWN OF ERIN VENDOR PERFORMANCE REPORT

Complete this form when Vendor has completed or fulfilled their deliverable to the Municipality

#### Vendor Performance Evaluation Scorecard Process

The purpose of the Vendor Performance Evaluation Scorecard is to define the process for monitoring vendors who impact the quality of products delivered to our customers. Going forward the Department Head will be responsible for collecting, managing and monitoring vendor performance evaluations.

Following completion of a project, the Department Head will be responsible for evaluating the vendor using a Vendor Scorecard included in the Town's Procurement Procedures.

Each Vendor's scorecard will be kept on file and used to determine if the vendors are meeting expectations in the following areas; Safety, Project Management, Scheduling and Overall Quality of Work. The Department Head and the Town of Erin will treat all vendor information and documents in a confidential manner.

The vendor score will be added and divided by the maximum rating and calculate the overall score as a percentage. If a vendor produces an overall score between 0-60%, the vendor or Department Head may request a meeting to discuss these particular areas of concern.

#### Vendor Scorecard Rating

Rating	Criteria
1	<b>Consistency falls far below expectations</b> – Performance jeopardized the achievement of Contract Requirements, despite additional oversight.
2	Frequently misses expectations -there are a number of performance issues that required the Department head to provide additional oversight to ensure that contract requirements were met.
3	<b>Mostly meets expectations</b> – there are very minor performance issues but vendor or service provider has otherwise met the contract requirements.
4	<b>Consistently meets expectations</b> -there are no performance issues and the vendor or service provider has met the contract requirements
5	<b>Exceed Expectations</b> – vendor or service provider has demonstrated a performance level in measurable excess of Contract Requirements
N/A	<b>Not Applicable</b>

#### Vendor Overall Score

Score	Criteria
(0-20%)	<b>Consistency falls far below expectations</b> – Performance jeopardized the achievement of Contract Requirements, despite additional oversight.
(21-40%)	<b>Frequently misses expectations</b> – there are a number of performance issues that required the Department head to provide additional oversight to ensure that contract requirements were met.
(41-60%)	<b>Mostly meets expectations</b> – there are very minor performance issues but vendor or service provider has otherwise met the contract requirements.
(61-80%)	<b>Consistently meets expectations</b> -there are no performance issues and the vendor or service provider has met the contract requirements
(81-100%)	<b>Exceed Expectations</b> – vendor or service provider has demonstrated a performance level in measurable excess of Contract Requirements
N/A	Not Applicable