

THE CORPORATION OF THE CITY OF MISSISSAUGA
PURCHASING BY-LAW 0374-2006

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MISSISSAUGA

THE CORPORATION OF THE CITY OF MISSISSAUGA

Purchasing By-law 0374-2006

(Amended by 0092-2010, 0120-2010, 0065-2012, 0080-2012, 0098-2012, 0096-2013, 0159-2013, 0144-2018)

WHEREAS the *Municipal Act 2001*, S.O. 2001, c. 25, Part VI, Section 271 stipulates that municipalities and local boards shall adopt policies with respect to their acquisition of goods and services;

AND WHEREAS The Corporation of the City of Mississauga has hereby undertaken a comprehensive review of its purchasing processes to identify accountability, transparency, and efficiency improvements;

AND WHEREAS the Council of The Corporation of the City of Mississauga deems it desirable to repeal, in its entirety, By-law 613-91, as amended, and pass a new by-law with respect to the acquisition of goods and services, and the disposition of surplus goods;

NOW THEREFORE the Council of The Corporation of the City of Mississauga ENACTS as follows:

SECTION 1 - DEFINITIONS

1. In this by law, the following terms shall have the meanings indicated:
 - (1) **“Acquisition”** means the acquisition by purchase, lease, rental or exchange transaction of Goods and/ or Services. (0120-2010)
 - (2) **“Applicable Law”** means any applicable federal, provincial or municipal law, statutes, by laws, regulations, rules, lawful orders or lawful directives applicable in Ontario from time to time.
 - (3) **“Award”** means the selection of the Bidder and the Bidder’s Goods and/or Services, as accepted by the City. (0120-2010)
 - (4) **“Best Value”** means the optimal value balance of efficiency, performance and cost having regard to the City’s objectives in respect of the Acquisition timing, quality and quantity as well as the procurement process and evaluation criteria for the Acquisition. (0120-2010)
 - (5) **“Bid”** means an offer or submission from a Bidder received in response to a Bid Request.
 - (6) **“Bid Request”** means a solicitation from the City to external suppliers to submit a quotation, tender, proposal, or best and final offer.
 - (7) **“Bidder”** means any legal entity submitting a Bid.
 - (8) **“Buyer”** means a buyer in Materiel Management assigned responsibility for a particular Acquisition.
 - (9) **“City”** means The Corporation of the City of Mississauga.
 - (10) **“City Manager”** means the City Manager of the City and any person to whom the authority of the City Manager is subsequently delegated by Council and includes any person who has been authorized, in writing, to temporarily act as City Manager during absence or vacancy in that office.
 - (11) **“City Standard”** means specific Goods approved by Council that best fill a long-term City-wide need or requirement. (0092-2010)

- (12) **“Commitment”** means a contract to acquire, or potentially acquire, Goods and/ or Services. (0120-0010)
- (13) **“Co-operative Acquisition”** means a procurement process conducted jointly by the City and one or more Public Bodies. (0120-2010)
- (14) **“Council”** means the council of the City. (0120-2010)
- (15) **“Department”** (“Departmental”) means an organizational unit of the City headed by a Department Head.
- (16) **“Department Head”** means the City Manager and any of the Commissioners appointed by Council with administrative responsibility for a Department and includes any person who has been authorized, in writing, to temporarily act during absence or vacancy in that office.
- (17) **“Departmental Director”** means a Divisional director in a Department and includes any person who has been authorized, in writing, to temporarily act during absence or vacancy in that office. (0120-2010)
- (18) **“Departmental Manager”** means a sectional manager in a Department who has been delegated with cost centre approval up to \$50,000 by the Department Head. (0120-2010)
- (19) **“Division” or “Divisional”** means a division within a Department. (0120-2010)
- (20) **“Emergency”** means a situation where it has been determined that a threat to public health, or life, or property or the environment exists such that the immediate Acquisition of Goods and/ or Services is essential to prevent serious delays, or damage to persons or property, or to restore or maintain essential City services. (0120-2010)
- (21) **“Goods”** means goods of all kinds, including both tangible and intangible goods, and shall include supplies, materials, equipment, structures and fixtures to be delivered, installed and/ or constructed, and licences. (0120-2010)
- (22) **“High Value Acquisition”** means an Acquisition of Goods and/ or Services having a value of more than \$100,000, and that is not a Medium Value Acquisition as approved by the Purchasing Agent or Council under section 11(2). (0120-2010)
- (23) **“Legal Services Division”** means the City’s Legal Services Division. (0120-2010)
- (24) **“Low Value Acquisition”** means an Acquisition of Goods and/ or Services having a value of \$10,000 or less. (0120-2010, 0065-2012)
- (25) **“Major Irregularity”** means a deviation from a Bid Request which, as determined by the Manager is substantial and material to the Award, and which if permitted, could give the Bidder an unfair advantage over competitors. (0120-2010, 0065-2012)
- (26) **“Manager”** means the person holding the management position of Manager, Materiel Management and includes any person who has been authorized, in writing, to temporarily act during absence or vacancy in that office.
- (27) **“Materiel Management”** means an organizational unit of the Department of Corporate Services responsible for all Acquisitions of Goods and Services for the City.
- (28) **“Medium Value Acquisition”** means an Acquisition of Goods and/ or Services that has a value of less than \$100,000 and that is not a Low Value Acquisition or that has a value of more than \$100,000 but is otherwise approved by the Purchasing Agent or Council in accordance with section 11(2). (0120-2010)
- (29) **“Minor Irregularity”** means a deviation from a Bid Request which, as determined by the Manager, affects form rather than substance, with no material

impact to the Award, and which if permitted, would not give the Bidder an unfair advantage over competitors. (0120-2010, 0065-2012)

- (30) **“Original Commitment”** means the Commitment made after an Award, and does not include any amendments or interim extensions, or renewals made to the Commitment. (0120-2010, 0065-2012)
- (31) **“Public Body”** means any local board, commission, non-profit corporation or municipal or government entity and shall include any corporation of which the City is a shareholder or any one of them alone or in any combination of them acting together.
- (32) **“Publicly Advertised Bid Process”** means the advertising by the City of Bid Requests in print publications widely available to the public or on the internet. (0120-2010)
- (33) **“Purchasing Agent”** means the Director of Revenue and Materiel Management whose responsibility it is to supervise and carry out the Acquisition function on behalf of the City. In the absence of the Director of Revenue and Materiel Management, the responsibility shall be carried out by the Commissioner of Corporate Services. (0120-2010)
- (34) **“Request for Best and Final Offer”** means a multi-stage procurement process that contemplates a final stage whereby the short-listed vendors may submit a best and final offer for the City’s evaluation and final selection. (0120-2010)
- (35) **“Request for Expression of Interest”** means a request which will be used to determine the interest of the market place to provide Goods and/ or Services which the City is contemplating purchasing and may result in the determination of a short list of Bidders to respond to a Bid Request. (0120-2010, 0096-2013)
- (36) **“Request for Information”** means a request which will be used as a general market research tool to determine what Goods and/ or Services are available which will meet business or operational requirements and Acquisition strategies and/or to estimate project costs for the purpose of developing a Bid Request. (0120-2010)
- (37) **“Request for Pre-Qualification”** means a request with specific qualification criteria which will be used to identify and pre select Bidders, where the experience and qualifications of the Bidders must be clearly established and verified prior to bidding.
- (38) **“Request for Proposal”** means a request which will be used to obtain a Bid or Bids for Goods and/ or Services in cases where the City can specify the performance requirements but the bidders must determine the optimal approach and the quantity and quality of their Goods or Services based on their particular attributes. (0120-2010)
- (39) **“Request for Quotation”** means a request which will be used to obtain a Bid or Bids in cases where the City has determined the quantity and quality of the Goods and/ or Services for Low or Medium Value Acquisitions or Single/Sole Source Acquisitions of any value. (0120-2010)
- (40) **“Request for Tender”** means a request which will be used to obtain irrevocable Bids for Goods and/ or Services for High Value Acquisition in cases where the City has determined the quantity and quality of the Goods and/ or Services. (0120-2010)
- (41) **"Single/Sole Source"** means an Acquisition permitted under the distinct and unique circumstances set out in Schedule "A" attached hereto.
- (42) **“Senior Buyer”** means a Buyer in Materiel Management accorded the title of Senior Buyer.
- (43) **“Services”** means services of all kinds, including labour, construction, maintenance and professional and consulting services. (0120-2010)

- (44) **“Unforeseen Site Condition”** means a pre-existing condition of the site (in which construction work is to take place/taking place in accordance with a Commitment) that was not anticipated despite best efforts in planning for the Acquisition and that would require additional work to be conducted on the site. (0120-2010)
- (45) **“Vendor”** means a legal entity with whom the City has entered into a Commitment.

SECTION 2 - MONETARY REFERENCES

- 2. (1) All references to dollar amounts in this by-law are to Canadian dollars.
- (2) For Bid evaluation purposes, all Bids submitted in currencies other than Canadian dollars shall be converted to Canadian dollars, at the exchange rate established by the Finance Division of the Corporate Services Department at the date of Bid closing.
- (3) All references to dollar amounts in this by-law do not include applicable taxes. (0120-2010)

SECTION 3 - APPLICABILITY

- 3. (1) The provisions of this by-law shall apply to all Acquisitions of Goods and/ or Services undertaken by or on behalf of Departments, excluding: (0120-2010)
 - (a) real estate;
 - (b) consulting or professional services that are delivered in a manner which constitutes an employer/employee relationship, in accordance with City policies and procedures as amended from time to time;
 - (c) Acquisitions related to reimbursable expenses incurred by employees or elected officials in accordance with City policies and procedures as amended from time to time;
 - (d) professional and other services limited to: (0120-2010, 0096-2013, 0156-2013)
 - (i) legal services and other professional services required for the provision of legal services, as required by the City Solicitor or designate;
 - (ii) professional services related to the defence of an insurance claim made against the City, as required by the Manager, Risk and Insurance;
 - (iii) arbitrators;
 - (iv) realty appraisers;
 - (v) court reporters and interpreters;
 - (vi) honoraria;
 - (vii) committee fees;
 - (viii) performers for City produced Culture events; (0144-2018)
 - (ix) acquisition, installation, inventory, maintenance, de-accessioning and disposal of City acquired art; and
 - (x) acquisition of objects and items for the Museums of Mississauga collections.
 - (e) general City expenses limited to: (0120-2010)
 - (i) postal charges;

- (ii) any payments made by the City under statutory authority (for example licences);
 - (iii) insurance premiums for insurance procured through the City's insurance broker; and (0065-2012)
 - (iv) legal and insurance settlements.
- (2) No Commitment shall be entered into, no debt shall be incurred, no expenditure shall be made and no account shall be paid in respect of a Commitment for Goods and/ or Services except in accordance with the provisions of this by-law. (0120-2010)
 - (3) City Acquisitions shall be conducted in accordance with this by-law and City policies including its policies on purchasing, employee conduct, financial matters, the environment, health and safety and records management. (0120-2010)
 - (4) Delegation of responsibility under this by-law shall only occur as specifically provided.

SECTION 4 - ETHICS IN PURCHASING

4. (1) The Purchasing Agent and Materiel Management staff shall comply with the codes of purchasing ethics established by the National Institute of Governmental Purchasing, Inc. and the Purchasing Management Association of Canada in respect of all Acquisition processes.
- (2) The City adheres to and insists upon adherence to a strict ethical standard in all City Acquisitions by all Bidders and Vendors. All Bidders and Vendors shall be required to become knowledgeable with and adhere to the City's policies in this regard, as may be amended from time to time.

SECTION 5 - AUTHORITIES AND DUTIES OF PURCHASING AGENT

5. The Purchasing Agent shall have the authority and be responsible, either directly or through permitted delegation to Materiel Management staff, for: (0120-2010)
 - (a) overseeing corporate Acquisition and developing corporate standards for the City's Goods and/ or Services if such standards are practicable and will achieve better financial value for the City; (0120-2010)
 - (b) ensuring that responsible Departmental staff, Bidders, and Vendors are aware of the ethical standards relating to purchasing and that adherence to those standards is maintained; (0120-2010)
 - (c) co-ordinating Medium and High Value Acquisition services including special Acquisition initiatives involving corporate administration and governance;
 - (d) establishing standards and evaluation committees to deal with procurement processes for corporate-wide Acquisitions;
 - (e) providing training for responsible Departmental staff; (0120-2010)
 - (f) determining, in accordance with all related policies and procedures as may be adopted or provided from time to time, the appropriate Acquisition method by which Goods and/ or Services should be acquired, including the form of any Commitment, in consultation with the Legal Services Division, the circumstances and means for the pre-selection of equipment and materials, and the pre-qualification of Bidders; (0120-2010)
 - (g) developing and maintaining all policies, procedures, directives, and practices and advising Bidders and all staff involved;
 - (h) providing professional advice and guidance, including strategic advice, fairness monitoring and advice on Vendor performance and contract implementation issues, to Departments in respect of Acquisitions;
 - (i) reporting to Council as required, pursuant to the provisions of this by-law;
 - (j) monitoring Departmental compliance with this by-law; and

- (k) the receipt, custody and safe keeping of all Acquisition Commitments, Award reports, and specified evaluation documentation for Medium Value Acquisitions and High Value Acquisition. (0120-2010)

SECTION 6 - CONFLICTS OF INTEREST

- 6. (1) Elected officials shall comply with the *Municipal Conflict of Interest Act* and officers and employees of the City shall comply with City policies on conflict of interest.
- (2) At any time during an Acquisition, beginning with the planning stage as set out in Section 9 of this by-law, through to the Award and Commitment stage, no person shall accept, directly or indirectly, from any person or organization to which any Acquisition is, or might be awarded, any thing of any value including rebates, gifts, meals, money or special privileges.
- (3) No preference will be given to providers or suppliers who provide unsolicited products or samples to the City or who demonstrate the operation of such products or samples.
- (4) With respect to the disposal of surplus items, no City employee or member of such employee's family may acquire an item if the employee was responsible for declaring the item surplus to the City's needs; or is or was otherwise involved in the disposal of such items.

SECTION 7 - CITY OF MISSISSAUGA'S PURCHASING PRINCIPLES

- 7. The City of Mississauga's purchasing principles are:
 - (a) Acquisition processes shall be efficient, effective, objective, and accountable;
 - (b) Transparency and fairness shall be ensured, and competitive value maximized, through full and open procurement processes;
 - (c) The Acquisition of Goods and Services shall be conducted in an unbiased way not influenced by personal preferences, prejudices or interpretations;
 - (d) Efforts shall be made to achieve the Best Value for the City; (0120-2010)
 - (e) Acquisition processes and approvals of Awards shall not be conducted by the same individual and, at all times the Departmental Director shall ensure segregation of process and Award Functions; (0120-2010)
 - (f) The total cost of purchasing, maintenance, continuing support, repair, staff training, operation, disposal, and other related costs shall be considered, rather than only the lowest invoice price;
 - (g) Efforts shall be made to acquire Goods and Services in a socially responsible manner and a manner which will conserve energy and help to preserve and protect the ecosphere; (0096-2013)
 - (h) The Acquisition of Goods and Services shall be conducted in a manner which will promote, and incorporate whenever possible, the requirements of the *Accessibility for Ontarians with Disabilities Act, 2005*. (0120-2010)
 - (i) The Acquisition of Goods and Services shall be conducted in accordance with the requirements of the *Municipal Freedom of Information and Protection of Privacy Act, the Municipal Act, 2001, Business Discrimination Act*, as may be applicable;

- (j) The Acquisition of Goods and Services shall be conducted in compliance with international/interprovincial trade treaties or agreements, as applicable, including the *North American Free Trade Agreement, the Agreement on the Opening of Public Acquisition for Ontario and Quebec and the Agreement on Internal Trade.* (0120-2010)

SECTION 8 - FUNDING AND COMMITMENTS

- 8. (1) No Commitment shall be entered into in respect of an Acquisition unless:
 - (a) funding for the Acquisition has been authorized by Council in the acquiring Department's operating or capital budget; or (0065-2012)
 - (b) special funding for the Acquisition has been approved by Council; or
 - (c) the Commitment is made conditional upon funding approval by Council.
- (2) Where Acquisitions are contingent upon funding from external parties, the funding arrangement shall be verified, in writing, prior to any Acquisition process being undertaken.
- (3) The form and content of the Commitment and ancillary documents and agreements shall be approved by the Purchasing Agent, the Manager or the Buyer, in accordance with Schedule "B", prior to execution of the Commitment. Form and content of all Commitments as described in Schedule C shall be drafted in concert with the Legal Services Division. The Commitment shall clearly specify any and all consideration being paid to the Vendor as a result of the Acquisition Award, including the maximum allowable upset amount where the precise requirement is not yet fixed. (0120-2010)
- (4) The total value on the form of Commitment shall not in any event exceed the total amount approved in accordance with this by-law.
- (5) The Departmental staff responsible for the Acquisition shall ensure that no Goods or Services are ordered, requested, delivered or performed until after a Commitment is executed in accordance with this bylaw. (0120-2010)
- (6) Where Council approval for an Award is required, the Purchasing Agent may specify the form and shall require the inclusion of appropriate purchasing content, including the recommendations(s), in any report. (0065-2012)
- (7) Commitments having a term in excess of ten (10) years shall require the approval of Council.
- (8) Repealed by By-law 0120-2010

SECTION 9 - PLANNING FOR ACQUISITION

- 9. (1) The acquiring Department shall, prior to initiating any Acquisition process for Goods and/ or Services: (0120-2010)
 - (a) ensure that the Goods and/ or Services are legitimately required for City purposes; and (0120-2010)
 - (b) consider short and long-term requirements with respect to quantities and time lines, or total project cost considering the life span of the program; and
 - (c) consider the cost of ongoing maintenance, support, and licensing etc. requirements; and
 - (d) confirm availability of funding; and
 - (e) allow sufficient time to complete the Acquisition as may be stipulated by City policy or directive, as amended from time to time; and (0096-2013)

- (f) prepare detailed specifications and quantity requirements with the underlying premise of encouraging full, open and fair completion. (0096-2013)
- (2) Where Goods and/ or Services of the same kind or type are required in connection with one project, all of those Goods and Services shall be included in determining the estimated value of the Acquisition, including all contemplated phases of the project. (0120-2010, 0065-2012)
- (3) The Departmental Manager, in respect of competitive Acquisitions over \$10,000 and up to \$50,000, shall execute all planning documentation stipulated by the Manager. (0065-2012)
- (4) The Departmental Director shall be responsible for directing and overseeing all Departmental Acquisition processes and shall execute all planning documentation stipulated by the Manager for all competitive Acquisitions over \$50,000 and all High Value and Single/Sole Source Acquisitions whether planned or on an Emergency basis.
- (5) Section Repealed by By-law 0096-2013
- (6) Acquisitions shall not be divided to avoid the requirements of this by-law.
- (7) The Purchasing Agent shall determine, in consultation with the acquiring Department, whether the Acquisition should be conducted so as to establish a City Standard, in accordance with the applicable City policies and procedures as may be amended from time to time. (0120-2010)
- (8) The Purchasing Agent may require that the Department report to Council prior to undertaking an Acquisition process or an Award, based on an evaluation of potential risk to and/or opportunity for the City.
- (9) Legal advice from Legal Services Division shall be sought for Acquisitions that are of the type as provided in Schedule "C". (0120-2010)

SECTION 10 - ACQUISITIONS FROM INTERNAL SOURCES

- 10. (1) Goods and Services which are available from existing corporate services or supply centres, such as the print shop, central stores, etc. shall not be obtained from other suppliers unless there is a compelling requirement for an alternate source Acquisition.
- (2) Goods and Services which are available from existing corporate Commitments, such as office supplies, courier services, etc. shall not be obtained from other suppliers unless there is a compelling requirement for an alternate source Acquisition.
- (3) Internal or in-house Bids, whereby an internal Department competes with external Bidders for Acquisition opportunities, may only be considered where Council considers it appropriate to do so and has provided approval prior to the Bid process. Any and all such internal or in-house Bids shall comply with this by-law, City policies, and procedures as amended from time to time. (0120-2010)

SECTION 11 – COMPETITIVE ACQUISITIONS

- 11. (1) Low Value Acquisitions (\$10,000 or less).(0065-2012)
 - (a) General
 - (i) Low Value Acquisitions shall be conducted by staff specifically delegated with this responsibility by the Departmental Director, with the assistance of a Buyer as needed, and which Acquisition shall be conducted strictly in accordance with this by-law, City policies and procedures, as amended from time to time. (0120-2010)

- (ii) The Manager or designate shall monitor Low Value Acquisitions for compliance with relevant City policies and procedures as amended from time to time, and shall:
 - A. advise Departmental Directors of any issues with respect to Low Value Acquisitions; and
 - B. make recommendations to the Purchasing Agent on the need for corporate contracts; and
 - C. advise Departmental Directors of relevant information such as existing corporate suppliers, timing, appropriate Acquisition methods, surety and insurance requirements, disqualified Vendors, etc.
- (b) Award and Commitment
 - (i) The Departmental Director shall ensure that a separate staff member, with City authority to manage cost centres, is responsible for approving the Commitment in accordance with Schedule B. (0120-2010)
- (2) Medium Value Acquisitions (more than \$10,000 and up to \$100,000) (0065-2012)
 - (a) General
 - (i) Departmental Staff members delegated with process responsibility shall consult with a Buyer when planning a Medium Value Acquisition in accordance with City policies and procedures. Buyers shall provide direction with respect to the proper Acquisition process to ensure Best Value Awards which may include direction as to existing suppliers, timing, evaluation criteria, surety and insurance requirements, disqualified Bidders, and the consideration of additional Bidders, among others.
 - (ii) Medium Value Acquisitions must be conducted by the issuance of a written Bid Request and shall be in compliance with City policies and procedures, as amended from time to time.
 - (iii) Medium Value Acquisition processes may be conducted by the Departmental staff members delegated with process responsibility by the Departmental Director, through the competitive bid process and obtaining three (3) written Bids if possible. (0120-2010, 0065-2012)
 - (iv) Section Repealed by By-law 0096-2013
 - (v) Following Bid evaluation, prior to an Award being made, a Buyer shall review the Acquisition process which was undertaken to ensure that it meets the requirements of this by-law and relevant City policies and procedures, as amended from time to time.
 - (b) Approval and Award
 - (i) Following Bid evaluation and determination of the Best Value Bid, the applicable Departmental staff as provided in Schedule B shall execute the Bid Award form as set out by the Purchasing Agent to indicate that funds are available for the Acquisition, that the Acquisition process was conducted in accordance with this by-law, and that the Award is approved by the Department. (0120-2010)
 - ii) If despite best efforts to estimate the cost of the Acquisition, the Best Value Bid exceeds \$100,000, an Award without Council approval may be made subject to all of the following conditions: (0120-2010, 0065-2012, 0098-2012)

- A. The Purchasing Agent is satisfied that all relevant considerations are taken into account throughout the planning and Acquisition phases, such that: a) the planning process and the cost estimation made prior to engaging in the Medium Value Acquisition process were appropriate; and b) that the Acquisition process itself were conducted properly. (0120-2010)
- B. The total amount of the Best Value Bid is \$120,000 or less, exclusive of taxes. (0120-2010)
- C. The Acquisition is in compliance with all other provisions of this by-law. (0120-2010)

iii) In addition to the signing requirements in section 11(2)(b)(i), an Award shall only be made after the applicable Materiel Management staff as provided in Schedule B confirms that the Acquisition process meets the requirements of this by-law. (0120-2010, 0065-2012)

(c) Commitment

(i) The applicable Materiel Management staff as provided in Schedule B is authorized to execute Commitments in respect of Medium Value Acquisitions when: (0120-2010)

- A. the Award has been approved in accordance with this by-law; and
- B. satisfactory terms and conditions have been obtained and agreed to; and
- C. the complete price and costing information has been identified; and
- D. an upset limit or total as well as the basis for approving work or receipts and releasing payment are clearly established; and
- E. there are no unresolved Bid Protests; and
- F. confirmation from the Departmental Manager or Director (as applicable in accordance with Schedule B) that funds are available, within existing approved budgets, without detrimental impact or elimination of any other planned Acquisition; and (0120-2010)
- G. verification that the Bid is the Best Value Bid from amongst the Bids submitted; and (0120-2010)
- H. the form of the Commitment has been prepared in concert with the Legal Services Division if the Commitment is for an Acquisition listed in Schedule C. (0120-2010)

(ii) Where any of the conditions listed in Section 11(2)(c)(i) above have not been met, then Council approval must be obtained through submission of a report from the Department Head, which shall include the advice of the Purchasing Agent as contemplated in Section 8(6) prior to executing the Commitment. (0120-2010)

(3) High Value Acquisitions (more than \$100,000)

(a) General

- (i) The Buyer is responsible for determining the method, conducting and managing all High Value Acquisitions including the evaluation process and the maintenance of information and results.
 - (ii) The staff member delegated with process responsibility by the Departmental Director is responsible for developing the specifications or statement of work and quantity requirements. The Manager or the Buyer is responsible for reviewing the specifications and quantity requirements, developing appropriate Bid Request requirements, evaluation method and criteria and conducting the Bid process ensuring that the purchasing principles outlined in Section 7 are followed. (0120-2010)
 - (iii) A Publicly Advertised Bid Process must be initiated. The methods for calling Bids include, but are not limited to:
 - A. Request for Information;
 - B. Request for Expression of Interest;
 - C. Request for Pre-Qualification;
 - D. Request for Tender;
 - E. Request for Proposal;
 - F. Request for Best and Final Offer; or
 - G. A multi-step process which may involve a combination of the above.
- (b) Approval and Award
- (i) The Manager or Purchasing Agent, as applicable in accordance with Schedule “B”, is responsible for approval of the Acquisition process, which shall include confirmation of the following: (0120-2010)
 - A. Department Head approval of the Award; and
 - B. verification that the Acquisition, was conducted in accordance with this by-law, and
 - C. identification of complete price and costing information; and
 - D. identification of an upset limit or total expenditure as well as the basis for approving work or receipts and releasing payment; and
 - E. approval by the Department Head or designate of the operational terms and conditions; and
 - F. confirmation from the Department Head that funds are available, within existing approved budgets, without detrimental impact or elimination of any other planned Acquisition; and
 - G. verification that the Bid is the Best Value Bid from amongst the Bids submitted; and (0120-2010)
 - H. there are no unresolved Bidder protests.
 - (ii) In addition, Council approval of the Award is required when:
 - A. funds are not available; or
 - B. the Bid is not the Best Value Bid of the Bids submitted; or (0120-2010)
 - C. there are unresolved Bidder protests; or

- D. Repealed by By-law 0065-2012
- E. the term of the Commitment exceeds ten (10) years; or
- F. at the discretion of the Purchasing Agent.

(iii) When Council approval of the award is required as outlined above, the Department Head shall report to Council as stipulated by Section 8(6). (0120-2010)

(c) Commitment

The Manager or Purchasing Agent, as applicable in accordance with Schedule B, shall execute Commitments in respect of High Value Acquisitions when the Acquisition has been approved in accordance with section 11(3)(b) and the form of the agreement has been prepared in concert with the Legal Services Division as required under Schedule C. (0120-2010)

SECTION 12 – NON-COMPETITIVE ACQUISITIONS (SINGLE/SOLE SOURCE AND EMERGENCY)

12 (1) General

- (i) An Acquisition may only be conducted using a Single/Sole Source Vendor if the Acquisition meets the specific criteria set out in Schedule “A”. (0120-2010)
- (ii) The Purchasing Agent or Manager shall have the final right of determination as to whether an Acquisition meets the relevant criteria. (0120-2010)
- (iii) This section applies to Medium Value Acquisitions and High Value Acquisitions only. Low Value Acquisitions are not required to meet with the Schedule “A” criteria. (0120-2010)

(2) Medium Value Single/Sole Source Acquisitions

(a) General

- (i) Departmental staff members delegated with process responsibility shall consult with a Buyer when planning a Single/Sole Source Medium Value Acquisition in accordance with City policies and procedures. Buyers shall provide direction with respect to the proper Acquisition process to ensure a Best Value Award which may include direction as to the appropriateness of a competitive process, existing suppliers, timing, evaluation criteria, surety and insurance requirements and disqualified Bidders. (0120-2010)
- (ii) A written Bid Request shall be issued, prior to any negotiations or entering into a Commitment, to clearly set out the requirements and to be used as a basis for determining terms and conditions.
- (iii) Following Bid evaluation, prior to an Award being made, a Buyer shall review the Acquisition process which was undertaken to ensure that it meets the requirements of this by-law and relevant City policies and procedures, as amended from time to time.

(b) Approval and Award

- (i) Following Bid evaluation and determination of an acceptable Single/Sole Source Bid, the applicable Departmental staff as provided in Schedule B shall execute the Bid Award form as set out by the Purchasing Agent to indicate that funds are available for the Acquisition and that the Award is approved by the Department.

Justification, as specified in Schedule A, shall be cited in writing. (0120-2010)

- (ii) In addition to the approval process under section 12(2)(b)(i), the Manager or Purchasing Agent, as applicable under Schedule B, shall review the Acquisition process and justification to ensure that the requirements of this by-law and relevant City policies and procedures, as amended from time to time, have been met. (0120-2010)

(c) Commitment

- (i) The Buyer or Manager, as applicable under Schedule B, is authorized to execute Commitments in respect of Single/Sole Medium Value Source Acquisitions when: (0120-2010)

- A. the Award has been approved in accordance with this by-law; and
- B. satisfactory terms and conditions have been obtained and agreed to; and
- C. the complete price and costing information has been identified; and
- D. an upset limit or total as well as the basis for approving work or receipts and releasing payment are clearly established; and
- E. the form of the Commitment has been prepared in concert with the Legal Services Division if the Commitment is for an Acquisition listed in Schedule C.

- (ii) Where any of the conditions listed in Section 12(2)(c) (i) have not been met, then Council approval must be obtained through submission of a report from the Department Head, which shall include the advice of the Purchasing Agent as contemplated in Section 8(6) prior to Commitment. (0120-2010)

(3) High Value Single/Sole Source Acquisitions

(a) General

- (i) The staff member delegated with process responsibility shall prepare a justification and shall obtain approval from the Manager or Senior Buyer that the proposed Acquisition meets the Schedule "A" criteria in advance of the submission of specifications to Materiel Management.
- (ii) The staff member delegated with process responsibility by the Departmental Director is responsible for developing the specifications, quantity requirements and statement of work. The Manager or the Buyer is responsible for reviewing the specifications and quantity requirements, developing appropriate Bid Request requirements, evaluation method and criteria and conducting the Bid process ensuring that the purchasing principles outlined in Section 7 are followed. (0120-2010)
- (iii) A Bid Request shall be issued to the selected Vendor, prior to negotiation or the entering into of a Commitment, to clearly set out the requirements and to be used as a basis for determining terms and conditions. (0120-2010)

(b) Approval and Award

- (i) The Purchasing Agent is responsible for approval of the Acquisition process in accordance with this subsection. Said approval shall include confirmation of the following: (0120-2010)

- A. Department Head approval of the Award; and
 - B. verification that the Acquisition, was conducted in accordance with this by-law; and
 - C. identification of complete price and costing information; and
 - D. identification of an upset limit or total expenditure as well as the basis for approving work or receipts and releasing payment; and
 - E. approval by the Department Head or designate of the operational terms and conditions; and
 - F. confirmation from the Department Head that funds are available, within existing approved budgets, without detrimental impact or elimination of any other planned Acquisition; and
 - G. verification that the Bid is justified and appropriate in accordance with the criteria set out in Schedule "A".
- (ii) Council approval of the Award is required except: (0120-2010, 0096-2013)
- A. in the specific instance stipulated in section 1(b)(viii) of Schedule A which shall require the approval of the Purchasing Agent; or (0096-2013)
 - B. for construction services provided by utilities, railway companies, or adjacent property owners required by the City as a result of City road or building construction. (0096-2013)
- (iii) When Council approval of the Award is required as outlined above, the Department Head shall report to Council as stipulated by Section 8(6). (00120-2010)
- (c) Commitment
- The Manager or the Purchasing Agent, as applicable in accordance with Schedule B, shall execute Commitments in respect of Single/Sole Source High Value Acquisitions when the Acquisition has been prepared in accordance with s.12(3)(b) and the form of the agreement has been prepared in concert with the Legal Services Division as required under Schedule C. (0120-2010, 0065-2012)

4. Emergency High Value Acquisitions

- (a) This section 12(4) shall apply to High Value Acquisitions only. Medium Value Acquisitions during an Emergency shall be governed by section 12(2) except that the Commitment execution may occur after the Acquisition has taken place. (0120-2010, 0096-2013)
- (b) In an Emergency, the Departmental staff member shall, if possible, contact the Manager or the assigned Buyer for Emergencies for direction on an appropriated Acquisition process and possible sources of supply. The approval of the applicable persons as provided in Schedule B shall be obtained before any Commitment is made. (0120-2010, 0096-2013, 0156-2013)
- (c) Where it is not possible to do so before the Emergency, the staff member shall document the detail of the Acquisition in a form set out by the Purchasing Agent as soon as possible following the Emergency. The form shall be authorized by the applicable Departmental staff as provided in Schedule B and forwarded to the Manager. (0120-2010, 0096-2013)
- (d) The Commitment shall be executed by the applicable Materiel

Management staff as provided in Schedule B for all Emergency Acquisitions, although such execution may occur after the Acquisition has taken place. (0120-2010, 0096-2013)

- (e) The Purchasing Agent shall report details of High Value Acquisition Emergencies to the Mayor and members of Council as stipulated in Section 26 as soon as is practicable. (0065-2012, 0096-2013)

SECTION 13 - CANCELLING AND REISSUING BID REQUESTS

- 13. (1) Subject to other requirements in this section 13, the Manager or the Buyer (as applicable) may cancel a Bid Request, in whole or in part if: (0120-2010)
 - (a) the Bid Request document contains errors or omissions which, in the opinion of the Manager, would result in an unfair process if an Award was made; or
 - (b) the Goods and Services are no longer needed; or
 - (c) all acceptable Bids received exceed the budget for the Acquisition or the fair market value and negotiating with the Bidder with the Best Value Bid is unlikely to yield an acceptable offer; or
 - (d) an opportunity arises and it is advantageous for the City to buy off from or tie on to another government contract; or
 - (e) a determination has been made that the bidding process has been compromised; or
 - (f) the scope of the Acquisition has changed.
- (2) In respect of High Value Acquisitions, the Manager may cancel a Bid Request, in accordance with section 13(1) with the concurrence of the Department Head. (0120-2010)
- (3) In respect of Medium Value Acquisitions, the Manager or the Buyer may cancel a Bid Request in accordance with section 13(1) with the concurrence of the Departmental Director. (0120-2010)
- (4) If a Bid Request has been cancelled, the Manager or the Buyer may authorize the issuance of a new Bid Request in respect of the Acquisition, by invitation to the original Bidders or by public advertisement. (0120-2010)

SECTION 14 – NEGOTIATIONS

- 14. (1) In the instance of Medium Value Acquisitions or High Value Acquisitions, the Manager or the Buyer, in consultation with the staff members delegated with process responsibility by the Departmental Director, may enter into negotiations with the Bidder submitting the Best Value Bid or with a Single/Sole Source supplier when such actions are in the best interests of the City and will not create an unfair situation for Bidders or Vendors. The Manager or the Buyer must maintain a record of any such negotiations. (0120-2010, 0065-2012)
- (2) In the instance of Medium Value Acquisitions or High Value Acquisitions where disclosed in the bid document, the Manager or the Buyer, in consultation with the staff members delegated with process responsibility by the Departmental Director, may enter into concurrent negotiations with more than one bidder. (0065-2012)

SECTION 15 - COMPLAINTS AND BIDDER PROTESTS

- 15. (1) All Bidder complaints, whether addressed to an elected official, a Department Head or any other City staff shall be referred to Materiel Management and dealt with in accordance with the applicable City policies and procedures, as may be amended from time to time. (0120-2010)

SECTION 16 - POINT OF CONTACT

16. (1) Contact for the purposes of this section relates to communications to and from City employees, consultants engaged by the City, elected officials or Council and Bidders during the time a Bid Request is in process.
- (2) For Medium Value Acquisitions, unless otherwise specified by the Buyer, the Departmental staff person delegated with process responsibility shall act as the official contact person and shall respond to all communications in respect of the Bid Request from the date of issuance, up to and including the announcement of an Award with the exception of Bidder complaints or protests which shall be forwarded to the Buyer. (0120-2010)
- (3) For High Value Acquisitions the Manager or the Buyer shall act as the official contact person and shall respond to all communications. The Buyer may, if appropriate, consult with a Departmental staff person in order to obtain required information to be communicated. (0120-2010)
- (4) If new information to a Bid Request is required, an addendum shall be issued by Departmental staff in the case of a Medium Value Acquisition, with notification to the Buyer, and by the Buyer in the case of a High Value Acquisition. (0120-2010)
- (5) Any Bidder found to be in breach of this section is subject to disqualification from participating in the current Bid Request.

SECTION 17 - RECEIPT AND OPENING OF BIDS

17. (1) Materiel Management is responsible for the safekeeping and recording of all original vendor submissions in respect of Medium Value Acquisitions and High Value Acquisitions. (0120-2010)
- (2) All sealed High Value Acquisition Bids received in response to Publicly Advertised Bid Requests shall be opened at public bid openings conducted by Materiel Management staff. Any member of Council, City staff or the general public may attend public bid openings. Late submissions shall be rejected. (0065-2012)
- (3) Bid amounts shall be made available to the public and officially recorded, subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*. Bid amounts so recorded shall not necessarily be determinative of the Award.
- (4) All High Value Acquisition Bids will be reviewed by the Manager or the Buyer to determine whether either a Major Irregularity or Minor Irregularity exists in accordance with City policies and procedures, as amended from time to time. If, in the opinion of the Manager, a Major Irregularity exists, the Bid will be rejected without further consideration. If, in the opinion of the Manager a Minor Irregularity exists, the Bidder may be permitted to correct the irregularity or the Manager may waive the irregularity and make the Award. Obvious errors in mathematical extensions, decimal point additions and/or taxes may be corrected by the Manager, and the unit prices will govern unless stipulated otherwise in the specific solicitation. (0120-2010, 0065-2012)
- (5) In the event of two or more identical or tied Bids, those Bids shall be evaluated against the principles set out in Section 7 of this by-law. In the event that two Bid Requests are tied or identical following such evaluation, the Manager or the Buyer shall, in the presence of the Departmental staff person delegated with process responsibility, toss a coin. The Award shall then be made to the winner of the coin toss. In the event that three or more tied or identical Bids remain following evaluation, the Manager or the Buyer shall, in the presence of the departmental staff person, conduct a lottery draw. The Award shall then be made to the winner of the lottery. (0120-2010)

- (6) Evaluation committees shall be established by the Manager or the Buyer for all High Value Acquisitions and Publicly Advertised Bid Processes. The Committee shall evaluate all Bids received against clear specifications, terms, and conditions. The Manager or the Buyer shall maintain a record of the evaluation process and results.
- (7) Results of all Publicly Advertised Bid Requests shall be posted on the City's website. (0120-2010, 0096-2013)
- (8) The Manager or the Buyer shall notify the successful Bidder of their Award.
- (9) The Manager or the Buyer shall notify non-successful Bidders: (0120-2010)
 - (a) if they are not selected to submit a Bid following a Request for Expression of Interest or a Request for Pre-Qualification;
 - (b) if they submitted a low Bid and have not been selected; or
 - (c) if their Bid was rejected.

SECTION 18 – AMENDMENTS, INTERIM EXTENSIONS, RENEWALS & TERMINATIONS

18. (1) General

- (a) If the City has entered into a Commitment in respect of a Medium Value Acquisition or High Value Acquisition, any amendment to the terms and conditions of the Commitment (including any increase to its value), any interim extension to the term of the Commitment, or any renewal of the Commitment shall follow the requirements within this section 18. Amendments, interim extension or renewal of Low Value Acquisition Commitments are not required to follow the requirements of this section 18. (0120-2010)
- (b) Amendments, interim extension or renewals of Commitments shall only be made if: (0120-2010)
 - (i) the amendment, interim extension, or renewal meets the conditions of this by-law and is not contrary to the principles set out in Section 7; and
 - (ii) funding is available within existing approved budgets and without detrimental impact or elimination of any other planned Acquisition; and
 - (iii) the amendment, interim extension, or renewal is within the scope of the Original Commitment.
- (c) Notwithstanding sections (18)(2) and 18(3), the applicable Materiel Management staff (as authorized in Schedule B) may extend the term on an interim basis or amend the value of a Commitment for sanding, salting, ploughing, snow removal, or water, electricity or fuel without regard to the percentage or dollar increase of the Commitment if: (0120-2010, 0096-2013)
 - (i) the basis for determining fees and charges is not being changed; and
 - (ii) the interim extension of the term or amendment is required due to operations or maintenance requirements; and
 - (iii) the weather or market conditions at any time during the term of the Commitment are/were worse than expected such that an interim extension of the term or the total value of the Commitment needs to be amended.

(2) Amendments

- (a) In addition to subsection 18(1)(b), amendments of Commitments shall only be made if the basis for determining fees and charges is not being changed unless the amendment is made under subsection 18(2)(e)(iv). (0120-2010, 0096-2013)
- (b) All amendments to Medium Value Acquisition Commitments and High Value Acquisition Commitments shall be approved and executed by the applicable person in accordance with Schedule B. (0120-2010)
- (c) No amendments may be made to Medium Value Acquisition Commitments if the total amount of the Original Commitment, all prior amendments, and the requested amendment exceeds \$120,000. (0120-2010, 0065-2012)
- (d) For amendments to High Value Acquisition Commitments, Council approval is required if the amendment is of a value that, on its own or if added together with any and all previous amendments made to the Original Commitment, the cumulative value of all amendments are: (0120-2010, 0065-2012)
 - (i) greater than 20% of the Original Commitment and greater than \$100,000; or
 - (ii) over \$1,000,000
- (d.1) For High Value Acquisition Commitments where Council has previously given approval under subsection (d), the Department Head and the Purchasing Agent may approve a further increase of up to \$100,000 to a Commitment to make a final payment on the Commitment. Council approval is otherwise required for any other amendment to the Commitment. (0096-2013)
- (e) Notwithstanding subsection (d) and (d.1) no Council approval for amendments to a High Value Acquisition is required if: (0120-2010, 0065-2012, 96-13)
 - (i) the amendment is for work required to address an Unforeseen Site Condition, in which case, the Purchasing Agent may execute the amending Commitment if the City Manager approves it: or
 - (ii) the amendment is requested by and paid for by other Public Body/Bodies with which the City has entered into the Co-operative Acquisition in which the City holds the contract with the Vendor on behalf of itself and other Public Body/Bodies. Council approval is still required if the amendment is a result of additional work requested by the City; or
 - (iii) Council has provided direction otherwise on the procurement at issue; or
 - (iv) the amendment is required to increase the value of a multi-year Acquisition where increases in quantity and/or price were contemplated in the Bid Request and Original Commitment but were not confirmed with the exact quantity and/or price. For greater clarity, this subsection (iv) shall apply only if:
 - A. the Commitment creates a relationship with a Vendor to provide goods and services over a multi-year supply contract but shall not include Commitments where the goods and/or services are supplied towards a single project requiring more than one year to complete (e.g. a construction project that requires more than one year to complete); and
 - B. additional quantity is required as a result of changes to staffing levels, number, and/or size of City facilities or lands, consumption or usage; and

- C. the method of determining the price has been established in accordance with the Commitment and the resulting price represents Best Value.

(3) Interim Extension

- (a) An interim extension of a Commitment may be required if: (0120-2010, 0096-2013)
 - (i) further opportunity is required to comprehensively and accurately complete a procurement process and issue an Award; and/or
 - (ii) additional time is required to fulfill all the obligations in progress at the time of the Commitment's expiry and to make final payments; and/or
 - (iii) the market conditions, including timing and specifications (relating to either the procurement of the Goods and Services or the particular industry), are in flux and that it would be more advantageous for the City to wait before proceeding with the issuance of a Bid Request.
- (b) An Award may be made to extend a High Value Acquisition Commitment under section 18(3)(a) on an interim basis if: (0120-2010)
 - (i) the Purchasing Agent and the Manager are jointly of the opinion that it is advantageous to extend the Commitment on an interim basis; and
 - (ii) a new procurement process is being prepared or is underway; and
 - (iii) the term of the interim extension does not exceed one year; and
 - (iv) the requirements under section 12(3)(b) are complied with, except that no Council approval is required if the Award of the interim extension is in compliance with all the requirements of this section 18(3)(b)
- (c) No interim extension under this section 18(3) may be made for Medium Value Acquisition Commitments, except as determined in section 18(3)(a)(ii). (0065-2012)
- (d) Section 12(3)(c) shall apply to the execution of any interim extension to an existing Commitment if all the requirements of this section 18 for the interim extension are met. (0120-2010)

(4) Renewals

The Manager may renew a Commitment only when the terms and condition of the Bid Request, Award report, and original Commitment provide for the renewal. Said renewal may not occur unless the conditions set out in section 18(1)(b) have been met. Where the terms and conditions of the original Commitment do not provide for renewal, a new Acquisition shall be conducted. (0120-2010)

(5) Termination

If the City has entered into a Commitment in respect of an Acquisition and the Department(s) for which the Goods and/or Services are acquired wishes to terminate the Commitment prior to the end of the term of the Commitments as a result of non-performance by the Vendor or that the Goods and/or Services contemplated under the Commitment are no longer required, the Department(s) shall consult with Materiel Management and the Legal Services Division to determine the appropriate course of action in terminating the Commitment. Commitments may be terminated upon the joint approval of the Department Head, the Purchasing Agent, and the City Solicitor, or their respective designate, or as otherwise authorized by Council. (0120-2010)

SECTION 19 - UNSOLICITED QUOTATIONS, TENDERS OR PROPOSALS

19. (1) No Award may be made based on unsolicited proposals. (0120-2010)
- (2) If it is determined that there is a legitimate need for the Goods or Services offered by way of an unsolicited offer, then an Acquisition process shall be conducted in accordance with this by-law.

SECTION 20 - CO-OPERATIVE ACQUISITION

20. (1) The City may participate with a Public Body in Co-operative Acquisition initiatives where it is in the best interest of the City to do so and where: (0120-2010)
 - (a) combining the volume of Goods and Services to be purchased by the City and a Public Body would result in a better value; or
 - (b) operational costs would be contained or reduced; and
 - (c) the Acquisition and Commitment are in substantial compliance with the provisions of this by law.
- (2) The Manager or a Buyer shall conduct all Co-operative Acquisition initiatives on behalf of Departments. Legal Services Division shall be consulted to determine the appropriate agreements required to conduct such initiatives with other Public Bodies. (0120-2010)
- (3) The Public Body initiating the Acquisition may determine the Award. In the event that the Award is not in the best interests of the City, the Manager may decline acceptance of the Award subject to any agreements that the City may have with the Public Body/Bodies involved in the Co-operative Acquisition. Where the City is initiating the Acquisition, the Acquisition process will be conducted in accordance with this by-law, and all requirements including approval and Commitment requirements according to the dollar value of the Acquisition must be met. (0120-2010)

SECTION 21 - SPECIAL RELATIONSHIPS

21. (1) In cases where the Acquisition of Goods and Services is involved, the City may enter into agreements with the private sector including but not limited to joint ventures, co-marketing agreements, public benefit planning agreements, public private partnerships, shared-use agreements, sponsorship arrangements, corporate and individual donation agreements, and advertising, subject to Council approval.
- (2) The Manager may conduct an Acquisition process, according to the dollar value of the Acquisition. All requirements of this by-law must be met, except that the Award must be approved by Council.
- (3) Council approval of the Award shall be obtained by the Department Head. All such reports shall be as stipulated by Section 8(6). (0120-2010)

SECTION 22 - VENDOR COMPLAINTS AND VENDOR PERFORMANCE

22. (1) The Departmental staff person who has been assigned responsibility for managing Commitments by the Departmental Director shall be responsible for dealing with Vendor inquiries and resolving Vendor disputes.
- (2) The Manager or the Buyer in consultation with appropriate Departmental, technical, Legal Services Division and risk management staff, shall resolve Vendor disputes not otherwise resolved by the Departmental staff person. (120-10)
- (3) Section Repealed by By-law 0120-2010
- (4) Section Repealed by By-law 0120-2010

- (5) Departmental and Materiel Management staff shall maintain records of poor Vendor performance on all Commitments, which shall be used to ensure contract compliance, to supplement a pre qualification process review or to justify rejecting a Bid or disqualifying a Bidder.

SECTION 23 - DISQUALIFICATION OF BIDDERS

23. (1) The Purchasing Agent may exclude a Bidder from eligibility to submit a Bid for a period the later of two years or until after the next Bid opportunity has occurred where there is documented evidence of poor performance or non performance in respect of the fulfillment of a Commitment, or there is documented evidence that the Bidder either violated a provision of this by-law or the Request or submitted an improper Bid, as determined by the Purchasing Agent. (0065-2012)
- (2) The Purchasing Agent may exclude a Bidder from a current Bid Request process if the Bidder is found to be in violation of section 16 (Point of Contact). (0065-2012)
- (3) Prospective bidders shall be notified of their exclusion from eligibility and shall have the right to protest in accordance with applicable City policies and procedures. (0065-2012)

SECTION 24 - BIDDER REGISTRATION

24. Repealed by By-law 0065-2012

SECTION 25 - DISPOSITION OF SURPLUS GOODS

25. (1) Departmental staff may recommend that items including material, equipment, furnishings and vehicles owned by the City are surplus to the City's needs and have a cash value or are refuse items.
- (2) The manager of the Departmental operating area may declare such items to be surplus and shall then advise the Buyer of any items including materials, equipment, furnishings and vehicles owned by the City which in his or her opinion are surplus and have a cash value.
- (3) Items declared surplus and having a cash value may be disposed of by the Buyer by the most advantageous means, which may include:
 - (a) redistribution throughout the City; or
 - (b) a recognized charitable organization in Mississauga registered as such with the Canada Revenue Agency (Charities Directorate); or
 - (c) public auction; or
 - (d) the issuance of a Bid Request; or
 - (e) trade in at fair market value as part of the Acquisition of other similar items or items required by the City; or
 - (f) as Council may otherwise authorize.
- (4) Refuse items shall be disposed.
- (5) Funds received from the disposal of surplus items shall be credited to the appropriate accounts, as determined by the Finance Division of the Corporate Services Department.

SECTION 26 - INFORMATION REPORTS

26. (1) The Manager shall provide information reports, on a monthly basis, to the Purchasing Agent, in respect of all Acquisitions in the previous month, or as otherwise required by this by-law.

- (2) The Purchasing Agent shall provide information reports, on a monthly basis, to the Mayor and members of Council in respect of all High Value Acquisitions, which shall include the names of all successful Bidders and the dollar amount of any Award. In addition, the Purchasing Agent shall provide information reports, on a monthly basis, to the Mayor and members of Council in respect of all contract amendments, interim extensions, and renewal for all High Value Acquisitions that have been approved in the previous month, which shall include the names of all Vendors and details of the applicable amendments, extensions, and renewals. (0120-2010, 0065-2012)
- (3) Section Repealed by By-law 0065-2012

SECTION 27 – RECORDS

27. (1) The Manager shall be responsible for the care, custody and control of records in respect of all Medium Value Acquisition and High Value Acquisition Commitments.
- (2) All records retained pursuant to this by-law shall be retained in accordance with the City's Records Retention By-law.

SECTION 28 – REVIEW COMMITTEES

28. The Purchasing Agent, in consultation with Department Heads and the City Manager, shall undertake a comprehensive review of this by law at least once every five years.

SECTION 29 - SEVERING

29. Should any provisions, clauses, sections, phrases or parts of this by-law, or the application thereof, be held by a court or tribunal of competent jurisdiction to be invalid, the remainder of this by-law, or the application of such provisions, clauses, sections, phrases or parts of this by-law shall not be affected.

SECTION 29.1 INTERPRETATION

- 29.1 (1) A reference to the singular number shall be deemed to refer to the plural, and vice versa, as the context may require. (0120-2010)
- (2) A reference to the masculine gender shall be deemed to refer to the feminine gender, and vice versa, as the context may require. (0120-2010, 0096-2013)

SECTION 30 - GENERAL

30. (1) This by-law comes into force on January 1, 2007.
- (2) By-law 613-91, as amended is repealed as of the date this by-law comes into force.
- (3) Commitments in effect on January 1, 2007 shall continue until the expiration of their term or other termination.
- (4) The short title of this By-law is the "Purchasing By-Law". (0120-2010)

ENACTED AND PASSED this 13th day of September, 2006.
Signed by Acting Mayor, Katie Mahoney and City Clerk, Crystal Greer

SCHEDULE "A"
CRITERIA FOR NON-COMPETITIVE ACQUISITIONS (SINGLE/SOLE SOURCE AND
EMERGENCY)

(Amended by 0092-2010, 0120-2010, 0065-2012, 0096-2013)

1. Pursuant to Section 12 Non-competitive (Medium Value Acquisitions and High Value Acquisitions), Acquisitions may be conducted using a Single/Sole Source supplier only if one or more of the conditions listed in either (a) or (b) below apply, the Purchasing Agent or Manager having the right of final determination, and a process is undertaken to obtain the Best Value under the circumstances for the City:
 - (a) The Goods and/or Services are only available from one supplier by reason of:
 - (i) a statutory or market based monopoly; or
 - (ii) scarcity of supply in the market; or
 - (iii) the existence of exclusive rights such as patent, copyright or licence; or
 - (iv) the complete item, service, or system is unique to one vendor and no alternative or substitute exists within Canada.
 - (b) The Goods and/or Services are available from more than one source, but there are good and sufficient reasons for selecting one supplier in particular, as follows:
 - (i) An attempt to acquire the required Goods and/or Services by soliciting competitive Bids has been made in good faith, but has failed to identify a willing, capable and compliant supplier; or
 - (ii) The Goods and/or Services are required as a result of an Emergency which would not reasonably permit the solicitation of competitive Bids; or
 - (iii) The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive Bids; or
 - (iv) The solicitation of competitive Bids would not be economical to the City; or
 - (v) Construction, renovations, repairs, maintenance etc. in respect of a building leased by the City may only be done by the lessor of the building, in accordance with a lease agreement; or
 - (vi) The Goods are purchased under circumstances which are exceptionally advantageous to the City, such as in the case of a bankruptcy or receivership; or
 - (vii) It is advantageous to the City to acquire the Goods and/or Services from a supplier pursuant to the procurement process conducted by another Public Body; or
 - (viii) It is advantageous to the City to acquire the Goods and/or Services directly from another Public Body or public service body; or
 - (ix) Another organization is funding or substantially funding the Acquisition and has determined the supplier, and the terms and conditions of the Commitment into which the City will enter are acceptable to the City; or
 - (x) The Acquisition is for a particular brand of Goods and/or Services that are intended solely for resale to the public and no other brand is desirable and the brand is not available from any other source; or
 - (xi) A need exists for compatibility with, or for the maintenance and support of a City Standard and there are no reasonable alternatives, substitutes, or accommodations; or
 - (xii) A need exists to avoid violating warranties and guarantees where support or Service is required for a City Standard; or
 - (xiii) Instructors, coaches, trainers and other specialized services for recreation programs for which Bids cannot readily be called; or
 - (xiv) The Acquisition is an interim extension contemplated under section 18(3); or
 - (xv) The Acquisition is for entertainment at a major City Event; or
 - (xvi) Funding and project completion timelines imposed by senior government programs do not allow adequate time for a competitive bidding process.

SCHEDULE "B"

**METHODOLOGY AND APPROVAL REQUIREMENTS
(UNLESS OTHERWISE SPECIFIED IN THE BY-LAW)**

(Amended by 0065-2012, 0080-2012)

Original Commitment Value	Acquisition Method/ Section Reference	Departmental Approval	Process Approval	Commitment Execution
Low Value Up to \$10,000	Pcard or Cheque Requisition [sections 11(1)]	Supervisors with Cost Centre Authority	As per Departmental Approval	In accordance with City policies and procedures
Medium Value \$10,001 up to \$50,000	Competitive [sections 11(2), 18(2)] ^A	Departmental Manager	Buyer	Buyer
	Non-competitive (Single/Sole Source) [section 12(2)]	Departmental Director	Manager	Buyer
	Emergencies [section 12(4)]	Departmental Director	Departmental Director	Senior Buyer
Medium Value \$50,001 up to \$100,000 (unless otherwise approved under section 11(2)(b)(ii), in which case the Medium Value Acquisition may be up to \$120,000)	Competitive [sections 11(2), 18(2)] ^A	Departmental Director	Senior Buyer	Senior Buyer
	Non-competitive (Single/Sole Source) [section 12(2)]	Department Head	Purchasing Agent	Manager
	Emergencies [section 12(4)]	Department Head	Department Head	Manager
High Value \$100,001 or more	Competitive [sections 11(3), 18(2)] ^B	Department Head	Manager up to \$500,000 Purchasing Agent if over \$500,000	Manager up to \$500,000 Purchasing Agent if over \$500,000
	Non-competitive (Single/Sole Source) [sections 12(3), 18(2)]	Council, upon recommendation of Department Head	Purchasing Agent	
	Emergencies [section 12(4)]	City Manager	City Manager	Purchasing Agent

^A The same approval process for the Original Commitment would apply to an amendment of the Commitment, except that no amendments may be made if the total amount of the original Commitment, all prior amendments, and the requested amendment exceeds \$120,000. (See section 18(2)(c)).

^B This approval process for a competitive High Value Acquisition would also apply to an amendment of any High Value Acquisition Commitment, the value of which amendment plus all other previous amendment to that Original Commitment, is less than \$100,000, or 20% of the Original Commitment and does not exceed \$1,000,000. For any other amendment of a High Value Acquisition Commitment, the approval process for a non-competitive High Value Acquisition would apply.

SCHEDULE “C”

LEGAL REVIEW REQUIREMENTS

(Amended by 0065-2012)

The following types of Acquisitions shall be conducted with legal advice provided by the Legal Services Division and the Commitments executed for these types of Acquisitions (including any amendments thereof) shall be prepared in concert with the Legal Services Division:

1. Any Acquisition with a value of \$500,000.00 or more;
2. Co-operative Acquisitions;
3. Acquisitions for a Commitment with a term of 5 or more years;
4. Acquisitions in relation to money handling and financial services;
5. High Value Acquisitions involving technology;
6. Special relationship arrangements under section 21 of the by-law;
7. Acquisitions where personal information will be collect, accessed or maintained by the City, or by a vendor on behalf of the City; and
8. Any other Acquisitions at the discretion of the Manager or designate, or the Departmental Director or designate.