

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. LS-2024-0001

**FOR THE CONSIDERATION OF
COUNCIL**

January 17, 2024

SUBJECT: PROCUREMENT POLICY AND PROCEDURES UPDATES

1. RECOMMENDATION:

1. That Council receive Report No. LS-2024-0001 prepared by the Legislative Services Department, Procurement Services Division dated January 17, 2024 regarding updates to the Procurement Policy 2018-0051 (PUR-1) and associated Procedures;
2. That Council repeal Procurement Policy By-law 2018-0051 (PUR-1) in its entirety effective February 1, 2024; and
3. That Council adopt the updated Procurement Policy (Attachment 1 to Report LS-2024-0001) by enacting By-law 2024-00XX (PUR-1) (Attachment 2 to Report LS-2024) effective February 1, 2024.

2. PURPOSE:

To present updates to the Town's Procurement Policy and receive Council's approval to implement the updates effective February 1, 2024.

3. BACKGROUND:

In 2017, it was identified that the Town's then-current Procurement Policy, which had been in effect since 2004, was out of date and needed to be modernized. Throughout 2017 and 2018, Procurement Services conducted extensive and comprehensive research, which included reviewing the procurement policies of several other municipalities. With input from Senior Management, key Managers and Supervisors, York Region's Director of Procurement, results of a 2012 audit and the Town's external Solicitor, our current Procurement Policy was presented to Council and approved on June 18, 2018, taking effect on October 1, 2018. A complete Procurement Procedure guide was also implemented to compliment the Procurement Policy along with organization-wide training.

Since that time, Procurement Services, through personal experience and with input from other Town Departments, has identified areas of inefficiency in the Procurement Policy that require updating.

4. **ANALYSIS:**

In addition to updates of an administrative nature, the following updates have been made to the Procurement Policy:

4.1 Roles and Responsibilities

Chief Administrative Officer (CAO):

- Further defined “recess” in CAO’s roles and responsibilities, changing the provision from:

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 procurement process that normally would require Council approval, provided that a report is submitted to Council afterwards, setting out the details of any contract awarded pursuant to this authority;

To:

During the time that regular Council meetings are suspended, during a period of recess of twenty-seven (27) calendar days or more in which there is no scheduled Council meeting, or for an emergency acquisition, the CAO is authorized to approve the award of contracts that normally would require Council approval, provided that a report is submitted to Council afterwards, setting out the details of any award of contract pursuant to this authority;

- Removed, “Approve all invoices with a value of two-hundred and fifty thousand dollars (\$250,000) or greater”;
- Since it was determined that this authority was no longer necessary because changes have been made to the scope change and contingency increase provisions, the following was removed:

“Where it appears that additional funds will be required to complete a project approved in the budget, and where such funds appear to be available within the budget appropriation for the Town, the Department Director or the DCAO may request that the transfer of the appropriation be made. If, in the opinion of the DCAO or the CAO, the transfer will not conflict with Council's Policies then:

1. The CAO may authorize the transfer to a limit of fifteen thousand dollars (\$15,000); and
2. Council must approve any transfers in excess of the above limit.”

Deputy Chief Administrative Officer & Treasurer (DCAO):

- Changed the title of Director of Corporate Services and Treasurer to Deputy Chief Administrative Officer & Treasurer (DCAO) throughout the document to reflect the change of position title;
- The DCAO's ability to appropriate additional funding to complete a project was edited from:
 1. "Where it appears that additional funds will be required to complete a project approved in the budget, and where such funds appear to be available within the budget appropriation for the Town, the Department Head or the DCAO may request that the transfer of the appropriation be made. If, in the opinion of the DCAO or the CAO, the transfer will not conflict with Council's Policies then:
 1. The DCAO may authorize the transfer to a limit of ten thousand dollars (\$10,000)."

To:

2. "Where it appears that additional funds will be required to complete a capital project approved in the budget, the Department Director may request that the DCAO approve an increase in the budget not to exceed fifty-thousand dollars (\$50,000);
 1. Approved budget increases must be reported to Council on the annual financial statement report."

4.2 Other

- Added Director of Legislative Services roles and responsibilities and reference to same throughout the document where applicable to reflect the new position;
- Added Town Solicitor roles and responsibilities and reference to same throughout the document where applicable to reflect the new position;
- Changed the title of Manager of Finance & Deputy Treasurer to Manager, Financial Controllershship and Reporting / Deputy Treasurer to reflect the departmental restructuring; and
- Updated Directors, Managers and Supervisors roles and responsibilities to reflect additional responsibilities necessary to support updates to the Policy.

4.3 Standard Procurement Methods

Since we are recommending that the Low Value Purchase (LVP) threshold be increased to \$25,000, as indicated in section 4.10 of this report, a number of changes are recommended to support the increase in the threshold level.

- Low Value Purchase (LVP) - New Template for use:

Given the increase in procurement thresholds, a requirement has been added to the LVP procurement method that employees must use a Request for Quotation (RFQ) document (provided by Procurement Services in the Procurement Toolbox) for the purpose of obtaining quotations for acquisitions defined as LVP based on the new threshold and recognizing the need for a standardized process to obtain quotations. The requisitioner is also required to collect and ensure insurance and WSIB is maintained for acquisitions for LVP's that they oversee.

- Low Value Purchase (LVP) – Added the following:

“When an acquisition of Consulting and Professional Services is made through the LVP process, the resulting contract is not eligible for term extension or continued engagement through the single source or sole source process once the originally proposed scope of work has been completed unless the additionally required work could not have been reasonably anticipated at the time of engagement and is authorized in advance by the Director of Legislative Services;

- Quick Bid Request for Quotation (QBRFQ) and Quick Bid Request for Proposal (QBRFP) – Removed these methods from use:

These procurement methods will be removed from use given the new procurement threshold and since they are not materially different from a Request for Tender (RFT) or Request for Proposal (RFP) with the exception of the posting time on market which will be determined at the discretion of the Procurement Representative depending on the acquisition value.

- Emergency Acquisition – New Provision:

In the current Policy, it is unclear that an emergency acquisition need not be a “declared” emergency and that urgent acquisitions may be made when necessary. Therefore, an additional provision will be added in which an acquisition may be defined as an “emergency”, where “*Time does not permit the use of a standard procurement process due to an event that creates an unforeseen urgency that could not be reasonably addressed through appropriate advance planning.*” This will be defined as a single source procurement and must follow the associated processes and procedures including a report to Council where the acquisition value is in excess of \$100,000.

- Co-operative Procurement and Piggyback – Removed Piggyback as a practice:
Removed the piggyback procurement process from use as the practice of “piggybacking” is not seen as a best practice and is contrary to trade treaties; and
- Non-Binding Request for Proposal (NBRFP) – Removed this method from use:
Removed this method of procurement from use as currently our RFP’s are all binding RFP’s.

4.4 Bid Review Panel (BRP)

- Changed the name of the Bid Review Panel (BRP) to Procurement Review Panel (PRP) to reflect the enhanced responsibilities of the panel to include the management of broader procurement issues in addition to bid irregularity reviews.

4.5 Grant-funded Projects

- Added a section in the Policy related to grant-funded projects recognizing that occasionally there are short time frames to meet, therefore there is a process by which the requisitioner may request special consideration from the procurement review panel (PRP), which may include exemption from or partial waiver of this Policy so as not to put the grant funding at risk.

4.6 Council Approval

Each year, Council undertakes a comprehensive and time-intensive budget review process. This includes in-depth discussions related to medium and larger size purchases and projects proposed in the upcoming year. In the existing 2018 Procurement Policy, any initiative over \$250,000, even though already discussed and approved through the budget, must come back to Council for re-approval once the procurement process is complete and the contract is ready to be awarded. This involves Town employees having to write a report, Management reviewing the report, and Council considering the report for a matter already deliberated and approved through the budget process. Consequently, it diverts valuable employee and Council time from other matters and adds time to the delivery of the project or service.

As a way to mitigate this inefficient use of employee and Council time, the updated policy will remove the requirement for Council to approve awards of contract, except for specific circumstances as stated below.

- The Council Approval section of the Procurement Policy has been modified to require Council approval for the following:

1. Any award of contract where Council has requested final approval of the award;
2. Where there is no provision in the Town's annual budget for the deliverable subject to the contract or purchase order;
3. Where the acquisition value proposed for acceptance exceeds the DCAO's authority to approve budget overages as provided for in DCAO's Roles and Responsibilities 6.3.2;
4. Any scope change or contingency increase where the combined cumulative increases of the revised acquisition value of the awarded contract exceeds the DCAO's authority to approve budget overages as provided for in DCAO's Roles and Responsibilities 6.3.2;
5. Where there is a bid or proposal irregularity or unresolved challenge with the procurement process and, in the opinion of the CAO, in consultation with the Town Solicitor, the award of contract is likely to expose the Town to legal, financial or reputational risk; and
6. Any single source or sole source contract having an acquisition value exceeding the single source or sole source threshold for Council approval as stated in SCHEDULE E – THRESHOLDS.

The intent is to remove the requirement to seek Council approval when the procurement process has been followed and where the bid submissions are equal to or less than the total of the Council deliberated and approved budget and the minor budget overage amount that is within the DCAO's authority to approve.

4.7 Scope Change and Contingency Increase

The current process for scope change and contingency increase has been identified as being inefficient and unreasonable for timely project management and contract administration. When originally implemented, the intent was to provide a process for changes to project scope and contingency increases while following a formal approval structure with the appropriate authorizations.

In practice, however, it has proven to be cumbersome, and having a fixed percentage approach regardless of the size of the project has resulted in the DCAO and CAO having to approve numerous low dollar scope changes.

Currently, any scope change or contingency increase must be approved by the DCAO for changes of up to ten percent (10%) of the value of the contract, or by the CAO for changes of up to fifteen percent (15%) of the value of the contract, provided in both cases that the project remains within the approved budget. Council must approve increases to the value of a contract exceeding fifteen percent (15%), up to a maximum of twenty-five percent (25%) of the value of the contract.

For example, if a fifteen percent (15%) scope change or contingency increase is required for a \$50,000 project (\$7,500), the CAO must authorize the change. Requiring employees to process paperwork for the DCAO and CAO to sign for such low values is administratively burdensome, time consuming and unrealistic. As a result, Procurement Services consulted with the project managers and affected Directors, Managers and DCAO to collaborate on a solution that would satisfy the need for an auditable approval process while removing the administrative burden of the existing process.

The upshot of this consultation was that it was agreed at the staff level to modify the approach to scope change and contingency increase to permit required increases as needed throughout the duration of the project, provided they do not exceed the Council-approved budget. If a budget overage is necessary, it is subject to the authority of the DCAO to approve minor budget overages, not to exceed the DCAO's authority as provided for in the DCAO's Roles and Responsibilities 6.3.2. If an increase is necessary in excess of the DCAO's authority, it must be approved by Council.

4.8 Contractor Suspension Procedure (CSP)

Since the implementation of the current Procurement Policy and Procedures, the Town has experienced some situations where the conduct of vendors and contractors has been unacceptable. Whether such conduct has arisen during the bid solicitation process where bid submissions contain false declarations, instances of contract repudiation upon award of contract, or contractor performance that has resulted in contract termination, the Town has had limited recourse to prohibit the offending vendors and contractors from bidding on further work.

The updated Procurement Policy and Procedure includes a Contractor Suspension Procedure (CSP) to enable the Town to suspend contractors where deemed necessary. Grounds for suspension are:

- Crimes or Offenses;
- False Declarations;
- Conflicts of Interest;
- Unsatisfactory Performance;
- Professional Misconduct or Lack of Commercial Integrity; and
- Litigation with or Indebtedness to the Town.

There are thorough procedures prescribed in which the Procurement Review Panel (PRP) will review and evaluate all circumstances and a determination made. The Town Solicitor will have oversight as a mandatory member of the PRP.

4.9 Schedule B – Exemptions from the Standard Procurement Process

Added:

- Deliverables related to food supplies for the Town's animal shelter and adoption centre;
- Educational or training programs where the service provider is prescribed by a regulatory body;
- Digital research resources;
- Real estate agent and lease arrangements;
- Legal services;
- Investigative services;
- Recreational programming instructors that will provide specific instruction to the public at a cost through a Town offered program;
- Deliverables related to catering services or venues for Town sponsored social events, such as golf tournaments or employee engagement events;
- Other court fees/costs (added to expert witnesses);
- Mediators and other similar professionals (added to arbitrators);
- Temporary staffing agencies and services;
- Membership and professional dues;
- Banking services;
- P-Card providers;
- Marketing, promotion and advertising for *Town's* services or programs; and
- Video surveillance equipment, security equipment and installation services where the highly confidential nature of the deliverable is such that it would not be in the Town's best interest to solicit competitive bid submissions.

Removed:

- Municipal Tax Equity (MTE) as approved in annual budgets;
- Payroll deduction remittances;
- Workers safety insurance board payments;
- Tax remittances;
- Debenture payments;
- Sinking fund payments;
- Damage claims;
- Legal settlements;
- Arbitration awards;
- Petty cash replenishment;
- Refund payments (such as property tax refunds, building permit refunds and refunds for cancelled services, programs or events); and
- Utility bills (such as water and sewer, hydro, natural gas).

Modified:

- “Deliverables where one hundred percent (100%) of the total cost is being paid or reimbursed by a third party” was reworded to "Deliverables acquired by the Town for the benefit of a third party, which will be reimbursed to the Town in full, or paid in full by the third party", which reflects the original intent of the wording in the current Policy.

4.10 Thresholds

SCHEDULE E – THRESHOLDS

ESTIMATED ACQUISITION VALUE THRESHOLD (Including Non-Refundable HST)	PROCUREMENT METHOD	FORM OF COMMITMENT
TABLE 1. THRESHOLD FOR LOW VALUE PURCHASES (LVP) BY REQUISITIONING DEPARTMENT		
Up to \$5,000	Low Value Purchase (LVP)	P-Card
\$5,001 to \$10,000	Low Value Purchase (LVP)	P-Card or Purchase Order
\$10,001 to \$25,000	Request for Quotation (RFQ) – Must obtain 3 written quotes (1 written quote for Consulting and Professional Services)	Purchase Order
TABLE 2. THRESHOLD FOR BID CALL PROCESS		
> \$25,000	Request for Tender (RFT) or Request for Proposal (RFP)	Purchase Order
TABLE 3. THRESHOLD FOR SOLE OR SINGLE SOURCE ACQUISITIONS		
\$25,001 to \$100,000	Single Source or Sole Source Form Required	Purchase Order
> \$100,000	Single Source or Sole Source Form Required	Purchase Order & Council Approval

Low Value Purchase (LVP)

The threshold at which Procurement Services must be engaged to conduct a public procurement will be increased from \$10,000 to \$25,000. This increase is being made to recognize that the cost of deliverables has increased since the adoption of the current Policy in 2018. This change increases the threshold at which employees must engage Procurement Services to acquire goods or services.

Employees will now be responsible for all acquisitions up to \$25,000, and the acquisition must only be made after having obtained a minimum of three (3) written quotations using the new Request for Quotation (RFQ) template. Acquisitions of Consulting and Professional Services may be made with only one (1) written quotation, although it would be preferred that employees do their best to obtain three (3) written quotations.

Employees conducting their own procurement for deliverables of low value must also continue to collect certificates of insurance and WSIB, while ensuring the insurance and WSIB is maintained for acquisitions for LVP’s that they oversee.

4.11 Schedule F – Purchasing Authorities

This table has been updated to increase the signing authority of Managers from \$20,000 to \$25,000 and to modify the DCAO & CAO's purchasing authorities to "Up to & > \$100,000".

SCHEDULE F – PURCHASING AUTHORITIES

ESTIMATED COST THRESHOLD (Including HST)*	POSITION LEVEL
Up to \$2,500	Staff
Up to \$10,000	Supervisor
Up to \$25,000	Manager
Up to \$100,000	Directors
Up to & > \$100,000	DCAO or CAO
* Invoice amount including all taxes. (All signing authorities include full 13% HST)	
A <i>Director</i> may request the increase of purchasing <i>authority</i> for authorized <i>staff</i> , <i>supervisor</i> or manager up to the limit of the next threshold where such higher <i>authority</i> is required to effectively and efficiently perform the responsibilities of their job. Written authorization to increase purchasing <i>authority</i> is required from the <i>DCAO</i> or the <i>CAO</i> .	

4.12 Schedule G – Purchasing Authorities – Emergency Acquisition

This table has been updated to increase the signing authority of Managers from \$20,000 to \$25,000 and to modify the DCAO's purchasing authority to "Up to \$250,000" and the CAO's purchasing authority to "Up to & > \$250,000".

SCHEDULE G – PURCHASING AUTHORITIES – EMERGENCY ACQUISITION

ESTIMATED COST THRESHOLD (Including HST)*	POSITION LEVEL
Up to \$2,500	Staff
Up to \$10,000	Supervisor
Up to \$25,000	Manager
Up to \$100,000	Directors
Up to \$250,000	DCAO
Up to & > \$250,000	CAO
* Invoice amount including all taxes. (All signing authorities include full 13% HST)	

4.13 Miscellaneous

- Moved procedural instructions in various sections of the Policy to the Procedures, where they are better suited;
- Modernized the Procedures to reflect changes to how we currently operate given the evolution of Procurement Services' operation over the past five years, in response to the pandemic and other continuous improvement initiatives; and
- Updated all affected forms and templates to reflect changes made in the Policy and Procedures.

5. RELATIONSHIP TO STRATEGIC PLAN:

This report addresses the following strategic goal in the 2023-2027 Corporate Strategic Plan:

GOAL 1: DELIVERING SERVICE EXCELLENCE.

6. FINANCIAL AND BUDGETARY IMPACT:

There are no identifiable financial or budgetary impacts as a result of this report aside from administrative efficiency gains that may be realized through the recommended updates in the Procurement Policy and Procedures.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

There are no public consultation and notice requirements associated with this report.

8. CONCLUSION:

The Town's current Procurement Policy and Procedures require minor updates to address identified inefficiencies since they took effect on October 1, 2018. This report outlines the areas within the Policy and Procedures that have been updated to address the inefficiencies. It is recommended that Council approve the proposed updates to the Procurement Policy and Procedures as identified in this report.

APPROVALS

Prepared By: Stirling E. Munro, Manager of Procurement Services

Reviewed By: Michael Bigioni, Director of Legislative Services & Town Solicitor

Reviewed By: Rob Wheeler, Deputy CAO & Treasurer

Recommended By: Michael Bigioni, Director of Legislative Services & Town Solicitor

Approved By: Ryan Cronsberry, CAO

Attachments:

Attachment 1 – The Corporation of the Town of Georgina Procurement Policy

Attachment 2 – Procurement Policy By-law