

THE REGIONAL MUNICIPALITY OF PEEL

BY-LAW NUMBER 30-2018

**A by-law to govern the procurement and disposal of goods and services and to repeal By-law 113-2013.**

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

AND WHEREAS, under subsection 4(3) of the *Police Services Act*, R.S.O. 1990, c. P.15, the Region is responsible for providing all the infrastructure and administration necessary for the provision of adequate and effective police services;

AND WHEREAS, the Council of The Regional Municipality of Peel has deemed it desirable to set out its policies with respect to its procurement of goods and services;

AND WHEREAS, this By-law establishes the authority and sets out the policies and methods by which goods and services will be procured and disposed of for the purposes of The Regional Municipality of Peel and for police purposes, subject to certain exceptions set out herein;

NOW THEREFORE, the Council of The Regional Municipality of Peel enacts as follows:

**PART I - PROCUREMENT GUIDING PRINCIPLES**

In the interpretation and application of this By-law, regard shall be had to the following guiding principles:

- 1.1 to maintain trust and confidence in the stewardship of public funds through objective, fair, transparent and efficient procurement processes;
- 1.2 to promote effective use of funds allocated by Regional Council through procurement methods, disposals and decisions that achieve best value for money;
- 1.3 to promote procurement processes and decisions that are in compliance with applicable legislation and trade agreements and that are consistent with the strategic objectives established for the Region of Peel, Peel Regional Police and Peel Housing Corporation;
- 1.4 to promote procurement practices that have regard for the accessibility of persons with disabilities; and

- 1.5 to promote sustainable procurement in a manner that has regard for the due consideration of sustainability in the acquisition of goods and services, including the consideration of social, environmental and economic factors.

## **PART II – DEFINITIONS**

- 2.1 The words and phrases listed hereunder when used in this By-law and the schedules hereto shall have the following meanings ascribed to them:
  - 2.1.1 “Award” means authorization to proceed with the purchase of goods and/or services from a chosen Vendor.
  - 2.1.2 “Best and Final Offer” means a multi-stage procurement process within a Request for Proposal that contemplates a final stage whereby Bidders may submit a best and final offer for the Region’s evaluation and final selection.
  - 2.1.3 “Best Value Bid” means the optimal balance of technical merit and cost determined in accordance with pre-set evaluation criteria disclosed in a Bid Solicitation for the purpose of making an Award. For Requests for Tenders and Requests for Quotations, the best value bid is the lowest cost compliant Bid meeting technical specifications and qualifications. For Requests for Proposals, the best value is the highest ranked compliant Bid following the evaluation of proposals.
  - 2.1.4 “Bid” means an offer or submission from a Vendor in response to a Bid Solicitation which is subject to acceptance or rejection by the Region.
  - 2.1.5 “Bidder” has the same meaning as Vendor.
  - 2.1.6 “Bid Solicitation” means a formal request for Bids including a Request for Quotation, Request for Tender or Request for Proposal.
  - 2.1.7 “Blanket Purchase Contract” means any contract for the purchase of goods and services which will be required frequently or repetitively but where the exact quantity of goods and services required may not be precisely known or the time period during which the goods and services are to be delivered may not be precisely determined, but having a maximum limit on both the total price or value of all goods and services and the time period during which all goods and services are to be supplied under such contract.
  - 2.1.8 “Board” means The Regional Municipality of Peel Police Services Board.
  - 2.1.9 “Chief Administrative Officer” means the employee designated as such by the Regional Council and any person who has been

authorized to temporarily act as Chief Administrative Officer during an absence or vacancy in the office.

- 2.1.10 “Chief Financial Officer” means the Chief Financial Officer for the Region and any person who has been authorized to temporarily act as Chief Financial Officer during an absence or vacancy in the office.
- 2.1.11 “Chief of Police” means the Chief of the Peel Regional Police and any person who has been authorized to temporarily act as Chief of Police during an absence or vacancy in the office.
- 2.1.12 “compliant” means, in relation to a Bid or the Vendor making a Bid in response to a particular method of Procurement being used under this By-law, that the Bid or the Vendor as the case may be, complies or has complied in all material respects with the requirements of the particular method of Procurement as reflected in the documents issued for that purpose and is not liable to disqualification for failure to comply.
- 2.1.13 “Delivered confidentially” means delivered under circumstances where:
  - 2.1.13.1 All or part of the goods and services relate to any matter of such kind as may be considered by Regional Council, or in the case of procurement of goods and services required for police purposes, by the Board, in the absence of the public; or
  - 2.1.13.2 The goods and services include the creation of records, the disclosure of which could be denied upon receipt of a request under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56.
- 2.1.14 “Department Head” includes the Chief Administrative Officer and any officer or employee of the Region who is designated as a Commissioner or Department Head, or in the case of procurement or disposal of goods or services required for police purposes, includes the Executive Director of the Board acting solely with respect to Board procurement matters, the Chief of Police, Deputy Chiefs of Police, or any person who has been authorized to temporarily act as any of the above.
- 2.1.15 “Deputy Chief of Police” means the Deputy Chief of the Peel Regional Police or any person that has been authorized to temporarily act as Deputy Chief of Police during an absence or vacancy in the office.
- 2.1.16 “Direct Negotiation” means a non-competitive procurement method and refers to the negotiation of an agreement for the purchase of goods and services where there is no open

competition among or between Vendors, or where any other condition under 5.2 of this By-law applies.

- 2.1.17 "Direct Purchase" means a non-competitive procurement method and refers to the direct order and purchase of goods and services from a Vendor valued at \$10,000 or less, exclusive of taxes.
- 2.1.18 "Director" means an employee of the Region who is designated as a Director or Director/Superintendent of the Police Service and any person who has been authorized to temporarily act as a Director during an absence or vacancy in the office.
- 2.1.19 "Director of Procurement" means an employee designated as such by the Region and any person who has been authorized to temporarily act as Director of Procurement during an absence or vacancy in the office.
- 2.1.20 "dispose" means the sale, exchange, transfer or gift of goods owned by the Region which are surplus to its needs and "disposal" and "disposed" shall have similar meanings.
- 2.1.21 "emergency" means a situation or impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident, or an act whether intentional or otherwise.
- 2.1.22 "goods" includes any tangible or intangible personal property and all legal or equitable rights or interest in or to the same, and includes all materials, equipment, fixtures and structures to be delivered, installed or constructed at or upon any real or leasehold property but does not include any lease, right or permission relating to the use or occupation of real property notwithstanding that such lease, right or permission may be classified in law as personal property.
- 2.1.23 "goods and services" includes either goods alone or services alone or any combination thereof.
- 2.1.24 "goods or services required for police purposes" means goods and services required to discharge the responsibility of the Region for providing all the infrastructure and administration necessary for the provision of adequate and effective police services and includes goods or services which are to be supplied to the Board.
- 2.1.25 "Informal Request for Quotation" means a request by the Region seeking Bids from potential Vendors to obtain goods and services up to \$25,000 to obtain low dollar value of goods and services expeditiously and cost effectively.
- 2.1.26 "Irregular Result" means a result in a Procurement in which:

- 2.1.26.1 the Best Value Bid exceeds the approved budget allocation; or
- 2.1.26.2 for any reason the Award of the contract to or the purchase from the Bidder having submitted the Best Value Bid is inappropriate or not in the best interests of the Region or of Police Service as the case may be.
- 2.1.27 “Negotiated RFP” means a Request for Proposal which allows for consecutive or concurrent negotiations to be conducted with Bidders on any of the contract terms including, but not limited to, the technical specifications, commercial terms and/or prices following the process outlined in the Request for Proposal.
- 2.1.28 “Police Service” means The Regional Municipality of Peel Police Service.
- 2.1.29 “prescribed” means prescribed by a procurement procedure.
- 2.1.30 “price or value” means in relation to any quantity or amount of goods and services the purchase price if known or the total estimated cost to purchase the particular goods and services at the relevant time, exclusive of all applicable taxes and delivery charges and in relation to goods and services purchased by way of rental agreement or lease, shall mean the lesser of:
  - 2.1.30.1 An amount which would otherwise be the purchase price exclusive of all applicable taxes and delivery charges, if the goods and services were acquired other than by rental agreement or lease; and
  - 2.1.30.2 An amount equal to the total of all rental or lease costs for the term of the rental agreement or lease.
- 2.1.31 “procure” or “purchase” includes the acquisition of any legal or equitable interest, right or title in goods and services or the making of any contract or offer for goods and services and includes the lease of goods and services; and “procured” “procuring” “purchased” and “purchasing” shall have similar meanings.
- 2.1.32 “Procurement” means the procurement function of the Region including the Director of Procurement and those employees who report either directly or indirectly to the Director of Procurement.
- 2.1.33 “procurement procedures” means procurement procedures established by the Director of Procurement under Part III of this By-law.
- 2.1.34 “Purchase Order” means a document used to acquire goods and services.
- 2.1.35 “Region” means The Regional Municipality of Peel.

- 2.1.36 “Regional Council” means the Council of The Regional Municipality of Peel, including the Chair.
- 2.1.37 “Request for Expression of Interest” means a request by the Region seeking responses from potential Vendors for the purpose of determining the interest of the marketplace in providing goods or services contemplated to be procured by the Region.
- 2.1.38 “Request for Information” means a request by the Region seeking responses from potential Vendors for the purpose of gathering information from the marketplace to provide a scope of work or services contemplated to be procured by the Region.
- 2.1.39 “Request for Prequalification” means a request by the Region preceding a Request for Proposal, Request for Quotation or a Request for Tender seeking Bids from potential Vendors where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified Vendors.
- 2.1.40 “Request for Proposal” means a request by the Region seeking Bids from potential Vendors to obtain goods and services of a unique or complex nature where all or part of the requirements cannot be precisely defined, and with the expectation that the Best Value Bid resulting from an evaluation of criteria which includes a combination of price, technical and/or other factors and meeting the requirements specified in the Request for Proposal, would be accepted, subject to any other provisions of the contract documents and this By-law, and includes a Best and Final Offer and a Negotiated RFP.
- 2.1.41 “Request for Quotation” means a request by the Region seeking Bids from potential Vendors to obtain goods and services with a value not exceeding \$100,000, excluding taxes, whenever the requirements can be precisely defined, with the expectation that the Best Value Bid meeting the requirements specified in the Request for Quotation, would be accepted, subject to any other provisions of the contract documents and this By-law.
- 2.1.42 “Request for Tender” means a request by the Region seeking Bids from potential Vendors to obtain goods and services with a value greater than \$100,000, excluding taxes, whenever the requirements can be precisely defined, with the expectation that the Best Value Bid meeting the requirements specified in the Request for Tender, would be accepted, subject to any other provisions of the contract documents and this By-law.
- 2.1.43 “Requisition” includes both any document, whether electronic or printed, prescribed for use in initiating the purchase of required goods and services and the activity of initiating the purchase of required goods and services; and “requisitioning” and “requisitioned” shall have similar meanings.

- 2.1.44 "Services" includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the Region or a member or employee of the Police Service in accordance with terms of employment.
- 2.1.45 "tied bid" means two or more compliant Bids which score equally after evaluation, or otherwise are equal, and which are the Best Value Bids received in accordance with Procurement policies and procedures.
- 2.1.46 "Vendor" means an individual, corporation, or organization offering goods and services including but not limited to contractors, consultants, suppliers and service organizations.
- 2.1.47 "Vendor Performance Management" means the Region's program which involves the evaluation of Vendor performance by employees of the Region, the maintenance of the records relating to such evaluation, and the use of such records to determine a Vendor's eligibility to participate in future procurements and to evaluate a Vendor's eligibility for Award.

### **Part III – APPLICATION**

- 3.1 All goods and services required for the purposes of the Region or required for police purposes, save and except only those goods and services set out in Schedule "A" to this By-law, which may contain conditions to which the exceptions set out in Schedule "A" are subject, shall be purchased and disposed of in accordance with the provisions of this By-law unless:
- 3.1.1 Regional Council, or in the case of goods and services required for police purposes, the Board, by resolution directs that any particular purchase or disposal of goods and services shall be carried out in some other manner; or
- 3.1.2 Any applicable law of the Province of Ontario or of Canada requires that the purchase or disposal be carried out in some other manner.
- 3.2 A resolution adopted under 3.1.1:
- 3.2.1 shall be a matter of public record;
- 3.2.2 shall state that the Regional Council or the Board as the case may be, is satisfied that it is necessary in the public interest that the procurement or disposal be carried out otherwise than in

accordance with the provisions of this By-law and give the reason or reasons for so concluding; and

- 3.2.3 need not identify the nature of the goods or services to be procured or disposed of.
- 3.3 Before adopting a resolution under 3.1.1 the Regional Council or the Board, as the case may be, shall afford the Director of Procurement an opportunity upon reasonable notice to be heard concerning the proposed resolution.
- 3.4 Where the circumstances mentioned in subsection 3.1.1 or 3.1.2 occur, the procurement or disposal of those goods and services shall be carried out in accordance with the resolution or the applicable law, as the case may be, to the extent required, and the provisions of this By-law shall in all other respects continue to apply to such procurement or disposal with all necessary modifications.
- 3.5 The Director of Procurement may establish procurement policies and procedures consistent with this By-law and the objectives set out in Part I relating to:
  - 3.5.1 the form, content and use of forms, whether electronic or printed, including Requisitions, Purchase Orders, bonds, letters of credit and other forms of guarantee or surety, the Bid Solicitation, and other contract documents;
  - 3.5.2 the identification of those goods and services which, notwithstanding their individual price or value and having regard to the frequency of purchase and nature of those goods and services, are more effectively acquired or disposed of by a method applicable to goods and services of a higher price or value or through co-operative purchasing;
  - 3.5.3 the implementation of financial controls meeting the audit requirements of the Region to ensure that those responsible for requisitioning and purchasing goods and services are held accountable for their decisions;
  - 3.5.4 methods of acquisition or disposal which will more effectively achieve the objectives of this By-law where alternative methods are permitted hereunder, and the process to be followed in the issuing of Bid Solicitations, receipt and evaluation of Bids and the process to be followed in relation thereto;
  - 3.5.5 sustainable procurement, including the use and consideration of procurement criteria in the acquisition of goods and services that have regard for social, environmental and economic factors;
  - 3.5.6 Bid Solicitation, including policies and procedures with respect to electronic bidding and that include compliance with applicable law and trade agreements;



- 3.5.7 irregularities contained in Bids and acceptable rectifications;
  - 3.5.8 the development, conduct, use and application of a Vendor Performance Management program;
  - 3.5.9 procedures governing Vendor disputes;
  - 3.5.10 in-house bids; and
  - 3.5.11 any other aspect of process or procedure not specifically provided for in this By-law.
- 3.6 Notwithstanding 3.1 of this By-law, those goods and services set out in Schedule "A" may be purchased under the authority of this By-law without adhering to the other requirements of this By-law, and the Director of Procurement is authorized to issue a Purchase Order for those goods and services.
- 3.7 Despite the provisions of 3.6 of this By-Law, the Director of Procurement may request that the purchase of any particular goods and services under Schedule A adheres to the provisions of this By-law where reasonable and appropriate to do so, and in the best interest of the Region.

**PART IV - PROCUREMENT RESPONSIBILITIES AND PURCHASE CONTRACTS**

- 4.1 Unless otherwise provided in accordance with this By-law, the Director of Procurement and the authorized employees of Procurement shall act as agents for the Region for the procurement of all goods and services, and shall be responsible for providing all necessary advice and services required for such procurements in accordance with a method of procurement authorized under this By-law. In doing so, the Director of Procurement may delegate to authorized employees of Procurement, such portions of authority delegated to him or her under this By-law, provided that such delegation shall not exceed the limits of the authority of the Director of Procurement under this By-law, including the financial limits delegated to him or her in Schedule "B".
- 4.2 The Director of Procurement, with the approval of the Department Head or a Director responsible for the employees concerned may delegate to an employee or employees who are not employed with Procurement or to a member or employee of the Police Service, all or part of the authority to act as agent for the purchase of goods and services having a price or value up to a designated amount not to exceed the amount indicated in Schedule "B", and the authority may be limited to a particular class of goods and services and upon such other terms and conditions as may be appropriate.
- 4.3 In discharging his or her responsibilities and exercising his or her authorities under this By-law, the Director of Procurement shall:

- 4.3.1 be accountable and report to the Chief Administrative Officer or in the case of the purchase or disposal of goods or services required for police purposes, to the Chief of Police;
  - 4.3.2 be subject to the direction, consistent with the requirements of this By-law, of Department Heads, concerning the need for specifications of goods and services to be procured;
  - 4.3.3 adhere to policies communicated by the Chief Administrative Officer or in the case of procurement of goods and services required for police purposes, policies of the Board communicated by the Chief, provided always that such policies are consistent with the provisions of this By-law;
  - 4.3.4 undertake a comprehensive review of this By-law every five (5) years and report to Regional Council accordingly;
  - 4.3.5 review and publish Procurement policies and procedures on an ongoing basis; and
  - 4.3.6 have regard to the code of purchasing ethics established by the National Institute of Governmental Procurement and the Supply Chain Management Association of Canada and shall ensure such codes are communicated to employees involved in the procurement process, particularly those with delegated authority.
- 4.4 Before communicating or adopting a policy under 4.3.3 the Chief Administrative Officer or the Board as the case may be shall afford the Director of Procurement an opportunity upon reasonable notice to be heard concerning the proposed policy.
- 4.5 No procurement of goods and services shall be authorized unless:
- 4.5.1 the authorization is sought in compliance with this By-law and any applicable procurement procedures;
  - 4.5.2 a method of procurement permitted under this By-law has been used;
  - 4.5.3 the form and content of all documents forming part of the purchase contract including the Bid Solicitation, Purchase Order, form of agreement, contract or other terms and conditions have been reviewed by Procurement or an agent to whom authority has been delegated under 4.2 and an appropriate person in the department responsible for requisitioning the goods and services; and
  - 4.5.4 the procurement has been approved by the appropriate authority under Part V.
- 4.6 Where in the opinion of the Director of Procurement circumstances give rise to an issue of adherence or non-adherence to the requirements of

this By-law which cannot be resolved to his or her satisfaction, he or she shall report on such circumstances to the Regional Council and where such circumstances involve a purchase of goods or services required for police purposes, to the Police Services Board.

4.7 In the case of the procurement of goods or services having a value of less than \$10,000, the requirements of this By-law as to the method of procurement do not apply provided that such procurement is undertaken:

4.7.1 in compliance with any applicable procurement procedures established under 3.5; and

4.7.2 in a manner, which in the judgement of the Director of Procurement or of the employees authorized to make such purchase, best achieves the objectives of this By-law.

4.8 A record shall be prepared for and reviewed by the person who may authorize the procurement under Part V which may be in the form of a report setting out in sufficient detail the circumstances regarding compliance with 4.5.1 to 4.5.4 inclusive and any other matter or thing which the person or body authorizing the procurement ought to take into consideration before authorizing the procurement.

4.9 Where any goods and services are to be delivered confidentially, whether or not they are procured using Direct Negotiation, the Chief Administrative Officer, or in the case of a procurement of goods or services required for police purposes the Chief of Police, or any employee designated by them respectively, may act as agent and provide the necessary advice and services which would otherwise be provided by Procurement under 4.1 and shall make the record required under 4.8. All such acquisitions shall be reported annually and confidentially by the Chief Administrative Officer to the Regional Council or in the case of the procurement of goods and services required for police purposes by the Chief of Police, to the Board.

4.10 The Director of Procurement may, and is encouraged, to enter into arrangements with area municipalities, local boards and other public bodies or authorities for the procurement of goods and services on a co-operative or joint basis where there are economic advantages in doing so; provided that, under any such approved arrangement:

4.10.1 the method of procurement used is a competitive method being the same or similar to a Request for Quotations, Request for Tender, or Request for Proposals; and

4.10.2 adequate arrangements for the provision of necessary advice and services in accordance with the method of acquisition have been made; and

4.10.3 a record, similar to the record required under 4.8, will be provided prior to the authorization of the procurement.

4.11 Where the procurement of goods and services has been authorized in accordance with this By-law all documents forming part of the purchase contract, including any Purchase Order, form of agreement or contract or other terms and conditions, shall be executed by the signing officers duly authorized in that regard pursuant to the Region's Document Execution By-Law, as amended, provided that where a Purchase Order in the prescribed form is to be issued to the Vendor indicating the acceptance or awarding of the contract or as part of the documentation forming the contract of purchase, the Purchase Order may be executed by:

4.11.1 the Director of Procurement;

4.11.2 an employee in Procurement authorized by the Director of Procurement; or

4.11.3 any person authorized to do so under an approved delegation of authority pursuant to 4.2.

#### **PART V - PROCUREMENT AUTHORITIES AND PROCUREMENT METHODS**

5.1 Unless otherwise provided in accordance with this By-law, the procurement of all goods and services shall be authorized in accordance with the provisions of Schedule "B" to this By-law. Any person procuring goods and services on behalf of the Region shall do so using a Request for Expression of Interest, Request for Information, Request for Prequalification, Request for Proposal, Request for Quotation (including Request for Informal Quotation) or Request for Tender procurement method. A Best and Final Offer or Negotiated RFP may be used, where appropriate, as part of a Request for Proposal process. The procurement methods referenced above may be utilized individually or in combination with one another as may be appropriate in the circumstances.

5.2 Unless otherwise provided in accordance with this By-law, goods and services may be procured using the Direct Negotiation method only if one or more the following conditions apply:

5.2.1 the required goods and services are reasonably available from only one source by reason of the scarcity of supply in the market or the existence of exclusive rights held by any Vendor or the need for compatibility with goods and services previously acquired and there are no reasonable alternatives or substitutes;

5.2.2 the required goods and services will be additional to similar goods and services being supplied under an existing contract (including contract extension or renewal);

5.2.3 an attempt to procure the required goods and services has been made in good faith using a method other than Direct Negotiation under 5.1 which has failed to identify a successful Vendor and it is not reasonable or desirable that a further attempt to procure the goods and services be made using a method other than Direct Negotiation;

- 5.2.4 the goods and services are required as a result of an emergency, which would not reasonably permit the use of a method other than Direct Negotiation;
  - 5.2.5 the required goods and services are to be supplied by a particular Vendor having special knowledge, skills, expertise or experience;
  - 5.2.6 the required goods and services are to be delivered confidentially;  
or
  - 5.2.7 the goods and services have a value of less than \$10,000.
- 5.3 Goods and services may be purchased under a Blanket Purchase Contract, which shall be entered into in accordance with the provisions of this By-law applicable to the procurement of goods and services having a price or value equal to the total estimated cost of all the goods and services to be supplied under the Blanket Purchase Contract.
- 5.4 Where goods and services of a similar type are to be supplied on a repetitive basis from one or more Vendors either over a period of time in a calendar year or over the course of a season, those goods and services shall be purchased in accordance with the provisions of this By-law applicable to goods and services having a price or value equal to the total estimated cost of all such similar goods and services to be supplied in the whole calendar year or during the course of the entire season as the case may be.
- 5.5 Where goods and services have been procured from a Vendor under this By-law pursuant to an agreement, contract or Purchase Order of any kind (hereinafter called the "original purchase contract") no additional, similar or related goods and services shall be procured from the same Vendor by Direct Purchase or Direct Negotiation, whether as a contract extension, contract renewal or separate purchase, unless:
- 5.5.1 the cumulative total price or value of the additional goods and services and all previously purchased additional goods and services, if any, does not exceed 20 per cent of the total price or value of all goods and services supplied or to be supplied under the original purchase contract; or
  - 5.5.2 new procurement authority is obtained in accordance with this By-law.
- 5.6 Notwithstanding the requirements of 5.5, the Director of Procurement may authorize payments for amendments to the original purchase necessary for work required to address unforeseen circumstances or any final contract payment related to the original purchase contract, if the budget is available.
- 5.7 Notwithstanding anything in this By-law, where any goods are available from a departmental inventory or under a Blanket Purchase Contract which are the same as or are a reasonable substitute for any required

goods, the goods from the inventory or under the Blanket Purchase Contract shall be used unless the purchase of the goods from another source is approved by the Director of Procurement.

- 5.8 Notwithstanding anything in this By-law:
- 5.8.1 where there is no regular meeting of Regional Council scheduled during a period of time that is more than 21 days after the date of the previously scheduled regular Council meeting, the Chief Financial Officer is authorized to make Awards that would otherwise be required to be made by Council pursuant to the provisions of this By-law or any procurement procedures, where the Chief Financial Officer deems the making of the Award reasonably necessary to carry on the business of the Region; and
  - 5.8.2 during any periods of time that Council's actions are restricted under section 275 of *the Municipal Act, 2001*, as amended, the Chief Financial Officer is authorized to make Awards that would otherwise be required to be made by Council pursuant to the provisions of this By-law or any procurement procedures, where the Chief Financial Officer deems the making of the Award reasonably necessary to carry on the business of the Region.
- 5.9 Bid Solicitations shall comply with all applicable trade agreements, and shall include clear specifications, evaluation criteria and terms and conditions that can be applied in a fair, transparent and consistent manner.

## **PART VI - DISPOSAL OF PROPERTY**

- 6.1 On an annual basis or at such time as may be prescribed by the Director of Procurement, all goods of the Region which have become surplus to its needs or the needs of the Police Service and that are to be disposed of, shall be listed with reasonable particularity and such lists shall be provided to Procurement.
- 6.2 Subject to 6.5 and any methods of disposal prescribed, surplus goods shall be sold, exchanged or otherwise disposed of by the Director of Procurement or an authorized employee in Procurement, using such methods of disposal and on such terms as are likely to achieve the highest net revenue or benefit or the reduction or avoidance of net cost from the disposition.
- 6.3 Procurement shall ensure that before any goods are disposed of, all Regional departments and the Chief of Police have been advised of availability of the goods and have been given an opportunity to acquire the same. Opportunity to purchase surplus goods may be given to other public agencies in such manner as may be prescribed by procurement procedures.

- 6.4 A report shall be submitted in accordance with the requirements of 6.2 to Regional Council or a Committee thereof summarizing the particulars of the disposition of all surplus goods pursuant to this By-law.
- 6.5 The Director of Procurement, with the approval of the Department Head responsible for the employees concerned, may delegate to an employee or employees not in Procurement, all or part of the responsibility and authority for the disposal of goods under 6.2 and the preparation of the report on the disposition of those goods required under 6.4 on such terms and conditions as may be appropriate including but not limited to:
  - 6.5.1 the use of any forms or methods of disposal prescribed under this By-law; and
  - 6.5.2 the keeping of records and timely provision of records and information to Procurement.

**PART VII - PROHIBITIONS AND COMPLIANCE**

- 7.1 All persons involved in the acquisition of goods and services provided for in this By-law shall act in a manner consistent with the requirements and objectives of this By-law.
- 7.2 No procurement of goods and services or any arrangements with respect to the procurement shall be made where quantity or delivery is divided or in any other manner arranged so that the price or value of goods and services to be acquired or the individual estimated value of goods to be disposed is artificially reduced. Without limiting the foregoing, where goods and 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 price or value for the purposes of this By-law.
- 7.3 No goods and services shall be Requisitioned under this By-law by any person unless:
  - 7.3.1 the goods and services are legitimately required for the purposes of the Region, or for police purposes, or for any other local board or other agency on whose behalf the purchase is being undertaken; and
  - 7.3.2 to the best of that person's knowledge and belief, the funds for the purchase of the goods and services are available within an approved budget or the Requisition is expressly made subject to funding approval and, to the extent that they may be required, funds are available from any other local board, municipality or other agency on whose behalf the purchase of goods and services is also being made.

**PART VIII - CONFLICT OF INTEREST**

- 8.1 No goods and services shall be procured from a member of Regional Council, or an appointed officer, employee of the Region or of the Police

Service or from any member of the Police Service or any spouse (including common law spouse), parent, grandparent, sibling, child, grandchild, niece, nephew, uncle or aunt of a member of Regional Council, or an appointed officer, employee or member, other than those services normally required under terms of employment where that person is an employee of the Region or of the Police Service unless, in addition to compliance with all other provisions of this By-law, the purchase has been approved by the Chief Administrative Officer or in the case of an employee of the Police Service, by the Chief of Police.

- 8.2 No member of Regional Council, or an appointed officer, employee of the Region or of the Police Service, member of the Police Service or any spouse (including common law spouse), parent, grandparent, sibling, child, grandchild, niece, nephew, uncle or aunt of an employee or member shall be permitted to purchase any surplus goods to be disposed of except by successfully bidding on the same at a public auction but in no case if the duties of that member of Regional Council, appointed officer or employee include making decisions regarding the disposal of such goods or activities relating to the conduct of the auction.
- 8.3 Members of Regional Council, appointed officers and employees of the Region or of the Police Service and members of the Police Service shall not knowingly cause or permit anything to be done or communicated to anyone which is likely to cause any potential Vendor or contractor to have an unfair advantage or disadvantage in obtaining a contract for the supply of goods and services to the Region or to the Police Service, or any other municipality, local board or public body involved in the procurement of goods and services either jointly or in co-operation with the Region.
- 8.4 No member of Regional Council, appointed officer, or employee of the Region or of the Police Service or member of the Police Service shall knowingly cause or permit anything to be done which will jeopardize the legal validity or fairness of any procurement of goods and services under this By-law or which is likely to subject the Region or the Police Service, to any claim, demand, action or proceeding as a result of such act or omission.

## **PART IX - LOBBYING RESTRICTIONS**

### **9.1 Lobbying restrictions:**

9.1.1 Vendors, their employees, agents, and any others involved in a procurement process provided for in this By-law, shall not, during a Bid Solicitation process or any subsequent award, engage in any form of political or other lobbying whatsoever or seek to influence the outcome of the procurement process or subsequent Award. This restriction extends to all of the employees or appointed officers of the Region or of the Police Service, members of the Police Service and members of Regional Council.



- 9.1.2 The Region may reject any Bid by a Vendor that engages in such lobbying, without further consideration, and may terminate that Vendor's right to continue in the procurement process.
- 9.1.3 During a Bid Solicitation process or any subsequent award, all communications shall be made to the Region's designated official point of contact as specified in the Bid Solicitation. No Vendor or person acting on behalf of a Vendor or group of Vendors, shall contact any member of Regional Council, Chair, Board or an appointed officer, consultant or any employee of the Region or of the Police Service, or member of the Police Service to attempt to seek information or to influence the Award.
- 9.1.4 Members of Regional Council, the Board, appointed officers and employees of the Region or of the Police Service, or members of Police Service, shall refer any inquiries about a Bid Solicitation process to the Director of Procurement.

**PART X - NO LOCAL PREFERENCE**

- 10.1 In accordance with the Region's Local Preference Procurement Policy and applicable trade agreements, goods and services shall not be afforded preferential treatment under this By-law or in any Bid Solicitation based on location or origin of the goods and services.

**PART XI – UNSOLICITED OFFERS**

- 11.1 Unsolicited offers received by the Region from a Bidder who has approached the Region to advise the Region of their ability or desire to provide the Region with goods and/or services shall be reviewed by the Director of Procurement for determination as to whether it is in the best interests of the Region to initiate a procurement process as set out in the By-law.

**PART XII – OFFICIAL POINT OF CONTACT AND COMMUNICATIONS**

- 12.1 An official point of contact shall be named in all Bid Solicitations, to respond to all communications in respect of the Bid Solicitation from the time of issuance, during the competitive process, and up to and including the announcement of Award. The official point of contact shall be the employee in Procurement indicated in the Bid Solicitation.
  - 12.1.1 Communications for the purposes of 12.1 are communications between a Vendor, its employees and agents, the broader Vendor community, and members of Regional Council, Board, appointed officers and employees of the Region or of the Police Service, or members of the Police Service as they relate to the particular Bid Solicitation.
  - 12.1.2 A Bid Solicitation may provide for the disqualification of any Vendor for failure to limit communications to the official point of contact.

### **PART XIII –TIED BIDS**

- 13.1 In the case of two Tied Bids, the successful Vendor will be determined by a coin toss, conducted by the Director of Procurement or designate, in accordance with Procurement procedures. The award shall then be made to the winner of the coin toss. In the event that there are three or more Tied Bids, the Director of Procurement or designate, in the presence of Regional staff, shall conduct a lottery draw. The Award shall then be made to the winner of the lottery.

### **PART XIV – NO COST PROCUREMENT**

- 14.1 A “no cost” procurement is a procurement where the Region will not bear any costs. These types of procurements include:
- 14.1.1 revenue generating opportunities, and/or
  - 14.1.2 cost pass through to a third party.
- 14.2 “No cost” procurements shall be acquired in the same manner and using the same procurement methods and corresponding approval requirements as procurements that have a cost to the Region, depending on the value of the no-cost procurement.

### **PART XV – VENDOR DEBRIEFINGS, DISPUTES**

- 15.1 All requests for a formal or informal Vendor debriefing to obtain feedback on why a Bid was not successful must be received by the Region in writing and directed to the Director of Procurement. A request for a Vendor debriefing will not alter an Award decision.
- 15.2 All Vendor disputes, whether addressed to councillors or employees, shall be referred to the Director of Procurement for resolution, or as may otherwise be required in accordance with any applicable procurement policy or procedure. Objections to a recommendation for Award must be in writing. The Director of Procurement shall review the objection and, where the Award has not already been made, determine, in consultation with the Region’s Legal Services where necessary, whether the Award should proceed. In such circumstances, the Director of Procurement or Chief Financial Officer may direct that the Award be made by Regional Council. In such case, the Director of Procurement and the Department Head on whose behalf the Bid Solicitation was issued and the Regional Solicitor shall report to Regional Council with respect to the recommendations for Award. The Director of Procurement or designate shall inform the Vendor of his/her right to make a deputation and shall advise the Vendor to contact the Regional Clerk’s Office for further information on the deputation process.

**PART XVI - AWARDS THAT REQUIRE COUNCIL APPROVAL**

- 16.1 Notwithstanding anything in this By-law, Council or Board approval, as applicable, of an Award is required:
  - 16.1.1 where indicated pursuant to Schedule “B”;
  - 16.1.2 where there is an Irregular Result;
  - 16.1.3 at the discretion of the Director of Procurement or Chief Financial Officer/Deputy Chief of Police.

**PART XVII- PROCUREMENT ACTIVITY REPORTING**

- 17.1 On a regular basis, the Director of Procurement shall report to Regional Council providing a summary of procurement activities. The report may include, but is not limited to, information on the following activities:
  - 17.1.1 contract Awards;
  - 17.1.2 disposal of surplus goods and equipment;
  - 17.1.3 emergency procurements;
  - 17.1.4 Awards during Regional Council recesses;
  - 17.1.5 non-compliance with this By-law;
  - 17.1.6 Awards based on unforeseen circumstances; and
  - 17.1.7 final contract payments related to the original purchase contract.

**PART XVIII - GENERAL**

- 18.1 Despite any other provision of this By-law, with respect to the procurement of goods and services required for police purposes which are to be supplied to the Board or with respect to the administration of such procurements, references to the Chief of Police shall be read instead as references to the Board’s Executive Director, and the Executive Director and not the Chief of Police shall exercise all such authorities in relation to such procurements.
- 18.2 In interpreting this By-law a reference to the singular number shall be deemed to refer to the plural and vice versa, as the context may require.
- 18.3 Schedules “A” and “B” attached hereto shall form part of this By-law.
- 18.4 This By-law may be referred to as the “Region of Peel Procurement By-law, 2018”.
- 18.5 If any section or sections of this By-law or parts thereof are found by any adjudicator of competent jurisdiction to be invalid or beyond the power of

Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other section or part of the By-law shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

- 18.6 By-law 113-2013, and any amendments, shall be repealed effective on the coming into force and effect of this By-law.
- 18.7 This By-law takes effect on the 1<sup>st</sup> day of July, 2018.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 10<sup>th</sup> day of May, 2018.

\_\_\_\_\_  
K. Lockyer  
Regional Clerk

\_\_\_\_\_  
F. Dale  
Regional Chair

## SCHEDULE "A" - EXCEPTIONS

This Schedule to the Procurement By-law identifies exemptions to the requirement that all procurements be undertaken pursuant to a procurement method outlined in Part V of this By-law.

Procurement staff must be consulted prior to embarking on any procurement outlined within this Schedule.

All agreements or contracts outlining any terms and conditions pursuant to a procurement under this Schedule shall be executed by the Director of Procurement or authorized signing officers as outlined in the Region's Document Execution By-law 32-2017, as amended from time to time .

Where there is potential for a competitive procurement process, Procurement staff shall recommend and assist with a procurement method outlined in Part V of this By-law.

The procurement and reporting methods described in this By-law do not apply to the following items, which shall be procured in accordance with any applicable Regional policies and procedures:

1. Petty cash
2. Expenditures for Training and Education including:
  - 2.1 Accommodation including meeting rooms and set-up.
  - 2.2 Catering and catered functions.
  - 2.3 Conferences, conventions, courses, workshops and seminars.
  - 2.4 Magazines, books and periodicals.
  - 2.5 Memberships in professional and vocational associations.
  - 2.6 Training.
  - 2.7 Region/Peel Police hosted conferences.
3. Refundable expenses including:
  - 3.1 Travel, meals, accommodation and any related expenses.
4. Employer's General Expenses including:
  - 4.1 Advertising
  - 4.2 Contracts with Federal, Provincial or Municipal governments, Agencies, Boards, Commissions, Authorities, Utilities, and Railways including but not limited to requirements for goods and services incidental to an approved capital project and/or maintenance.
  - 4.3 Credit rating agencies.
  - 4.4 Licenses (e.g., vehicle, elevator, radio, firearm, etc.), certificates and other approvals required.
  - 4.5 Postage.
  - 4.6 Professional association surveys.
  - 4.7 Promotional display expenses.
  - 4.8 Regional charges to and from Area Municipalities.
  - 4.9 Short-term car/vehicle rentals.

- 4.10 Toll road payments.
5. Professional and Special Services including:
  - 5.1 Accommodations, payments, fees provided to individuals, cooperatives, corporations and governments under Regional Council approved Programs including accommodation provided under Rent Supplement Agreements.
  - 5.2 Insurance coverage and bonds when purchased through the Region's insurance broker of record.
  - 5.3 Legal counsel provided under the direction of the Region's insurance broker of record or to represent the Region for third party insurable claims as well as the purchase of any goods or services in the settlement of any claims.
  - 5.4 Legal Services provided in support of members under an agreement between the Board and an association of members of the Police Service and Forensic Accounting Services required for Police operational purposes.
  - 5.5 Professional and skilled services provided to individuals as part of approved programs of the Region, including but not limited to: medical services, dental services, laboratory services, home care services, counselling services, interpreter and translation services, day care/child care, music, entertainment, physiotherapy, podiatry, hairdressing, horticulture and skilled healthcare services.
  - 5.6 Provision of Employee and Member Assistance Programs.
  - 5.7 Professional services provided to the Board in support of collective agreement negotiations, external legal services and consulting services, provided that same are funded from Board allocations for such services.
  - 5.8 Other special fees and services including but not limited to witness fees, arbitrators, mediators, court reporters, investigators and other like services.
6. Utility charges including:
  - 6.1 Basic telephone service
  - 6.2 Cable television service
  - 6.3 Electricity
  - 6.4 Natural Gas
  - 6.5 Water
7. Real Property including lease, rent, purchase, sale, land, buildings, leasehold interest, easements, encroachments, appraisals and payment of real estate commissions.
8. Payments required to be paid by the Region under statutory authority.
9. Subject to the provisions of the policy governing Front End Financing Agreements and Developer Reimbursements approved by Regional Council on October 30, 2003 as same may be amended from time to time (the "Policy"), works located on private property being developed, provided that the construction of the works at the expense of the Region has been approved by Regional Council in the Capital Budget for the year in which construction commences or a preceding year. This exemption is not applicable to works acquired by the Region, which are required or permitted by the Region to be the subject of a front end financing agreement.

**SCHEDULE "B" - PROCUREMENT APPROVAL AUTHORITIES UNDER PART V**

<b>Method of Procurement</b>	<b>Dollar Range</b>	<b>Procurement Authority</b>
Direct Purchase	Up to \$10,000	Any employee authorized by the Director of Procurement
Informal Request For Quotation	Greater than \$10,000 to \$25,000	Any employee authorized by the Director of Procurement including employees under Clause 4.2
Request for Quotation	Greater than \$25,000 to \$100,000	Manager of Procurement
Request for Tender	Greater than \$100,000 up to \$500,000	Director of Procurement
	Greater than \$500,000	Chief Financial Officer/ Deputy Chief of Police
Request for Proposal	Greater than \$10,000 to \$500,000	Director of Procurement
	Greater than \$500,000	Chief Financial Officer/ Deputy Chief of Police
Direct Negotiation	Greater than \$10,000 to \$100,000	Director of Procurement
	Greater than \$100,000 to \$250,000	Chief Financial Officer/ Deputy Chief of Police
	Greater than \$250,000	Regional Council/Police Services Board

**OTHER AWARDS REQUIRING COUNCIL OR BOARD APPROVAL  
PROCUREMENT APPROVAL AUTHORITIES UNDER PART XVI**

<b>Method of Procurement</b>	<b>Dollar Range</b>	<b>Procurement Authority</b>
All procurement methods resulting in an Irregular Result (in accordance with s. 16.1.2)	All Dollar Values	Regional Council/Police Services Board
All procurement methods when directed by the Director of Procurement or the Chief Financial Officer/Deputy Chief of Police (in accordance with s. 16.1.3)	All Dollar Values	Regional Council/Police Services Board