SUBJECT: Purchasing Policy Amendments (FCS07017(a)) (City Wide)
Audit and Administration Committee: Outstanding Business Items F and K

RECOMMENDATION:

(a) That the amendments made to the Purchasing Policy for the City of Hamilton, Appendix 'A'; and Procedures for Participation of Elected Officials in the Procurement Process and Specifications, Appendix 'B' to Report FCS07017(a) be approved, and

(b) That Item F be removed from the Outstanding Business List of the Audit and Administration Committee, and

(c) That Item K be removed from the Outstanding Business List of the Audit and Administration Committee.

Joseph L. Rinaldo
General Manager
Finance and Corporate Services

EXECUTIVE SUMMARY:

Section 4.20 of the Purchasing Policy for the City of Hamilton mandates that the Manager of Purchasing submit an annual report to the appropriate standing committee of Council incorporating any changes to the Policy.
Council approved the last changes to the Policy on October 26, 2005 (FCS04031(a)). Since that time, Council and staff have identified several areas where Policy changes are required. It was felt that it was appropriate to allow Committee the opportunity to understand the changes and provide feedback prior to revising the existing sections of the Policy and drafting the new sections required. Proposed changes of substance were presented to committee at the February 21, 2007 meeting (FCS07017), and this report reflects staffs’ understanding of Committee’s direction.

This report is intended to provide Council with an overview of the specific areas that have been amended.

**BACKGROUND:**

The Purchasing Policies for the City of Hamilton were received for information by Council on May 29, 2001. Council requested that a complete review of the Purchasing Policy for the City Of Hamilton be undertaken on an annual basis.

Since the amalgamation of municipalities into the City of Hamilton, Purchasing staff have worked closely with departments to help streamline the procurement process to be more efficient, error free, and to reduce the turnaround time for purchase orders, and contracts issued. Buyers are aligned with specific departments as this model has proved to be more efficient due to the better understanding of the complexities of each Client Department. As a result, Purchasing has been able to develop a better appreciation for the special needs and requirements for each department, while at the same time ensuring that operational staff have an adequate understanding of how the Purchasing Policies are to be applied when acquiring goods and/or services.

The Purchasing Section continues to update Client Departments on any changes in the Purchasing Policy and related procedures by posting information on the Purchasing Resource page located on the City enet and through divisional meetings with Client Departments. Amendments to the Purchasing Policy are communicated to the Client Department to ensure understanding and compliance.

Since the last Purchasing Policy review, the Purchasing Section has presented two series of Information Sessions to potential bidders, in order to educate the vendor community and allow them to ask questions and become more familiar with the City’s procurement process. At the end of each session, attendees were given an opportunity to provide feedback regarding the procurement process. This was done verbally in an open forum and via the completion of a ‘Customer Satisfaction Survey’ that was distributed at the sessions. Staff received positive feedback on changes we have implemented and initiatives that we are contemplating from the vendor community. Going forward, the Purchasing Section will be expanding this initiative to present specific topics and issues of concern to the vendor community.

The following Purchasing Policy changes were presented at the February 21, 2007 Audit and Administration Committee.
Participation of Elected Officials in the Procurement Process
In June 2006, the Purchasing Section submitted a report to the Corporate Administration Committee (FCS06072) regarding the viability of, or conflicts associated with the involvement of Elected Officials in the evaluation process of Request for Proposals. Of the three options outlined in the report, Council directed staff to draft a policy to outline the participation of Elected Officials in the evaluation of Request for Proposals in narrowly defined circumstances. Subsequently, at the February 21, 2007 Audit and Administration Committee meeting, Committee had further discussions regarding this issue and agreed that this policy should specifically prohibit the ability of an Elected Official to participate in the evaluation of submissions.

Excess Packaging
At the September 27, 2006 meeting of Council, the following motion was made by Councillor Dave Braden: “That staff, in consultation with the appropriate departmental staff, be requested to develop a policy within the purchasing policy that would require suppliers of goods purchased by the City to be completely responsible for collecting the excess waste (packaging) from their products.” This proposed change was accepted by Committee at the February 21, 2007 Audit and Administration Committee meeting.

Sponsorship
The Purchasing Section is frequently approached for access to the City’s vendor database with a desire to solicit vendor sponsorship for City and/or staff initiatives. There is no existing policy that governs this situation and the individual requests have been dealt with on a one-off basis. Corporate Management Team directed Purchasing to draft a policy to be reviewed and approved by City Council. Committee has since directed staff to prohibit any solicitation of current or potential City vendors.

Other Issues
Purchasing is currently gathering information regarding the scope and use of Fairness Commissioners in the procurement process. Findings will be forwarded to Committee for review and comment. Some preliminary information, an excerpt entitled ‘Using Fairness Commissioners in Major Projects – Five Critical Considerations’, authored by Paul Emanuelli, Counsel, Crown Law Office – Civil, Ministry of the Attorney General, Ontario, attached as Appendix ‘C’ to Report FCS07017(a).

At Committee’s request, further information regarding the cost per point evaluation method for Request for Proposals will be presented again for approval, with more direct input by the Client Departments.
ANALYSIS/RATIONALE:

Following is an outline of changes made to the Purchasing Policy and Procedures:

Policy Amendments:

Section 4.3 – Policy for Specifications
This policy has been amended to include the requirements of the Ontarians with Disabilities Act 2001, the Accessibility for Ontarians with Disabilities Act 2005 and its regulations and the Barrier Free Design Guidelines 2006 or the most recent version.

The other amendment to this policy was the consideration of excess packaging when procuring a good, in an attempt to eliminate or reduce the costs associated with disposal packaging.

Section 4.8 – Policy for Vendor Performance Evaluation
This policy has been amended to contemplate a vendor’s breach of a multi-year contract. In these instances, the Manager of Purchasing shall have the discretion to determine how to secure a new vendor for that good and/or service. Factors that would be considered in making this decision would include (but not limited to) the remaining time of the contract term, current market conditions, any changes in the Client Department’s requirements for that good and/or service, and availability of the good and/or service in the market place.

Section 4.14 – Policy for Standardization
Reference to the Standards and Approved Products Committee (Report PW06106), approved by Committee of the Whole on August 9, 2006 has been added.

The policy has also been amended to include the following provision: when a standard has been approved by Council, the Manager of Purchasing shall have the authority to negotiate a house account with the original equipment manufacturer or licensed distributor for that good.

Schedule ’B’ – Recurring or Non-Competitive Expenditures has been amended.

Additions to this exemption list include:
- antiques and artifacts (shops, sales, repairs, but not including restoration)
- acquisition of art (but not including commissioned works of art)
- publications (including newspapers, periodicals, magazines or books)
- maintenance and licensing software purchases for systems previously acquired.
- purchases of goods for the purpose of retail sales (re-sale) by the City (but not including items that bear the City of Hamilton logo or insignia)

The items have been added to the list as they are primarily sole source items, and cannot be purchased on a competitive basis. The exception to this reasoning is the purchases of goods for the purpose of retail sales. This exemption was added as these...
purchases are based on brand specific items that would dominate the market share for that good, and therefore would be sought after by consumers.

New Policies:

Section 4.23 - Policy for Participation of Elected Officials in the Procurement Process
Report FCS06072 outlined four recommendations stemming from the Toronto Computer Leasing Inquiry & Toronto External Contracts Inquiry.

At the February 21, 2007 Audit and Administration Committee meeting, Staff was directed to amend this policy to reflect that Elected Officials shall not participate in the evaluation of submissions received.

One of the options that has been incorporated in the policy will be the use of steering committees established by Council for the purpose of overseeing a procurement process; to provide input as required, to review specification documents and to review evaluation results and award recommendations. These steering committees should be established by Council as a whole and should define the mandate of the committee and the makeup of its membership.

This is a new policy and the procedures are contained in Appendix ‘B’ of this report.

Section 4.24 – Policy for Solicitation of Vendors
The originally proposed policy required that any sponsorship solicitation would be made to the vendor community at large and not targeted solely to the vendors that the City uses unless approved by Council. It also outlined that the sponsorship would be to the mutual benefit of both the City and the vendor participating.

Upon further discussion by members of the Audit and Administration Committee, staff was directed to prohibit the solicitation of any current or potential vendors for any sponsorship or donations.

As the direction of this policy is clear and straightforward, an accompanying procedure is not required.

**ALTERNATIVES FOR CONSIDERATION:**

There are no alternatives recommended for consideration.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Development and approval of enhanced policies outlined above would minimize the legal and financial risks to the City from vendor claims and potential conflicts of interest.

There are no staffing implications as a result of this report.
POLICIES AFFECTING PROPOSAL:

Purchasing Policy, approved by Council on October 25, 2005.

RELEVANT CONSULTATION:

Discussions regarding each amendment were held with relevant Departments and Divisions. In addition, feedback was received from Committee Members at the February 21, 2007 Audit and Administration Committee.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No

Since Elected Officials will be completely removed from the evaluation process of Request for Proposals, any involvement required on their part will be unbiased and viewed as fair, open and transparent by the Vendor Community.

Environmental Well-Being is enhanced. ☑ Yes ☐ No

The inclusion of an excess packaging policy is in support of Waste Management’s initiative of 65% percent diversion by 2008.

Economic Well-Being is enhanced. ☑ Yes ☐ No

Some enhancements of the procurement process allows a more streamlined process for Client Departments to procure Goods and/or Services, making the process more efficient.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No
FINANCIAL SERVICES

PURCHASING SECTION

Purchasing Policy
for the City of Hamilton

Approved By City Council On: xxxxxxxxxx
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MISSION, VISION AND VALUES

Mission

- To ensure that the Purchasing function meets the current and future needs of the corporation, provides an economical and efficient service and is considered a value-added partner in the securing of Goods and/or Services for the corporation.

Vision

- A team of resourceful skilled professionals, working in partnership with their customers to procure the best Goods and/or Services in the most efficient manner.

Our Corporation Values

The vision, mission and goals of the City of Hamilton will be guided by 10 core values.

- Fiscal Accountability: to increase the efficiency of our City government through fiscal responsibility and prudence
- Leadership: in our thinking and in our actions; encouraging individual and team initiatives that exceed expectations, and advocating what we believe in
- Innovation: to think broadly and long-term; to balance both City-wide and neighbourhood responsibilities; to do more with limited resources
- Integrity: to demonstrate honesty and sincerity in all of our dealings, upholding only the highest ethical principles; to provide open and transparent communications to create informed opinion
- Respect: for the needs of all residents, for all viewpoints, and for the diversity of our community
- Compassion: sensitivity to, and meeting the requirements of all residents with special needs and interests, and those less fortunate
- Commitment: to fulfilling the vision and goals of the City
- Teamwork: working in full cooperation and a spirit of collegiality with staff, Council, residents, businesses and external partners
- Sustainability: to contribute to a balanced community, economy and environment; to minimize the footprint of our activities and to do no harm
- Excellence: in our service delivery, through a quality workforce; and to show pride in our efforts and the community in which we live and work

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PURCHASING GOALS & OBJECTIVES

SECTION 1

(1) Procure the necessary quality and quantity of Goods and/or Services in an efficient, timely and cost effective manner, while maintaining the controls necessary for a public institution, in accordance with the Purchasing Policy as approved by Council.

(2) Encourage an open and competitive bidding process for the acquisition and disposal of Goods and/or Services, and the objective and equitable treatment of all vendors.

(3) Ensure the best value of an acquisition is obtained. This may include, but not be limited to, the determination of the total cost of performing the intended function over the lifetime of the task, acquisition cost, installation, disposal value, disposal cost, training cost, maintenance cost, quality of performance and environmental impact.

(4) Further, the City of Hamilton's commitment to procure Goods and/or Services with due regard to the preservation of the natural environment and to encourage the use of "environmentally friendly" products and services, as supported by Vision 20/20 goals and strategies.
RESPONSIBILITIES & PROHIBITIONS OF PROCURING GOODS AND/OR SERVICES

SECTION 2

(1) General Responsibilities

(a) All City staff delegated with purchasing authority shall follow the guidelines set out in "A Statement of Ethics for Public Purchasers" established by the Ontario Public Buyers' Association, attached as Schedule A, the City's Conflict of Interest Policy and Section 4.17 of the Purchasing Policy with respect to conflicts of interest.

(b) Procurement activities shall be subject to all applicable City policies and by-laws, any specific provisions of the Municipal Act, and all other relevant Federal and Provincial legislation.

(2) Purchasing Section Responsibilities

The Director of Financial Services and the General Manager of Finance and Corporate Services shall operate a Centralized Purchasing unit on behalf of the City in accordance with the requirements of the Purchasing Policy. In carrying out this responsibility the General Manager of Finance and Corporate Services may appoint designated officials to act on behalf of the City in entering into Contracts with third parties. The General Manager of Finance and Corporate Services may limit the purchasing authority of the designated officials, as deemed appropriate. The Purchasing Section will therefore have the following specific responsibilities:

(a) Be responsible for the administration of the Purchasing Policy and Purchasing Procedures and Guidelines, and will continually review the corporate use of Goods and/or Services to ensure the City is receiving the best value.

(b) Ensure that purchasing transactions are conducted ethically and professionally.

(c) Conduct audits on an annual basis to ensure that the requirements of the Purchasing Policy have been met and provide such further training as determined to be necessary by the audit.

(d) Advise on the practicability of Specifications to ensure a maximum number of competitive Bids.

(e) Notify vendors who have expressed an interest in doing business with the City of the availability of the purchasing documents.

(f) Prepare necessary purchasing documents and process Purchase Orders.

(g) Advise and assist in the preparation of Contracts when requested.

(h) Provide training and documentation on how to use the purchasing module to users of the City's financial software application. Make available copies of the Purchasing Policy and Purchasing Procedures and Guidelines to all relevant City staff.

(i) Maintain records of purchasing transactions as required.

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(3) General Managers Responsibilities

(a) Ensure all purchases are performed in accordance with the Purchasing Policy and Purchasing Procedures and Guidelines.

(b) Delegate Approval Authority to the appropriate levels.

(4) Prohibitions

The following activities are prohibited, unless specifically approved by Council:

(a) Any attempt to evade or circumvent the requirements of the Purchasing Policy including, but not limited to, the division of purchases to avoid the requirements of the Purchasing Policy by any method, which includes purchases made using procurement cards.

(b) Purchase by the City of any Goods and/or Services for personal use by or on behalf of any member of Council, appointed officers, employees of the City or their immediate families.

(c) The acceptance of gifts, benefits, money, discounts, favours or other assistance by any member of Council, officers and employees, and their families as detailed in the City of Hamilton Conflict of Interest Policy. The image and integrity of the employee and the City of Hamilton must be preserved at all times.

(d) Purchase by the City from any member of Council, officers, employees of the City or their families or from any other source that would result in a conflict of interest, unless such interest has been declared pursuant to the Municipal Conflict of Interest Act.

(5) Exclusions

Those items listed in Schedule B, Recurring or Non-Competitive Expenditures, are exempt from the requirements of the Purchasing Policy, save and except for Section 4.4 of the Purchasing Policy (Approval Authority).
DEFINITIONS AND INTERPRETATION

SECTION 3

“Acquisition Method” means the process by which Goods or Services are procured.

“Approval Authority” means the authority to approve procurements up to the procurement values for the respective body or person(s) set out in Section 4.4 of the Purchasing Policy.

“Approved Products Listing” means the listing of approved Goods for use with road, watermain, sewer, lighting and traffic signal work as maintained by the City’s Standard and Approved Products Committee.

“Authorized Delegate” means the person who has been delegated by Council an Approval Authority and includes any other person further delegated such Approval Authority in accordance with the Purchasing Policy.

“Bid” means an offer or submission from a vendor in response to a Request for Quotations, Request for Tenders or Request for Proposals issued by the City.

“Centralized Purchasing” refers to the activities conducted by the Purchasing Section of the City's Corporate Services Department, which is responsible for the purchase of all Goods and/or Services in accordance with the requirements of the Purchasing Policy.

“Child” means any person under the age of 15, unless local minimum age law stipulates a higher age for work or mandatory schooling, or under the age of 14 if minimum age law is set at that age in accordance with exceptions set out for developing countries under International Labour Organization (“ILO”) Convention 138.

“City” means the City of Hamilton.

“City Affiliates” means a local board of the City, Hamilton Entertainment and Convention Facilities Inc. (HECFI) and any other City controlled corporation.

“Client Department” means the City department initiating the acquisition of the Goods and/or Services.

“Consulting and Professional Services” includes architects, engineers, designers, surveyors, planners, accountants, auditors, lawyers, management, software and financial consultants, brokers, soil consultants, and any other consulting and professional services rendered on behalf of the City.

“Contract” means a formal legal agreement between two or more parties, usually written, or a Purchase Order.

“Cooperative Purchasing” means coordination of City purchases with purchases from other not-for-profit organizations such as other municipalities, utility companies, school boards and hospitals.
“Coordinated Works” means coordination of projects with projects from within the same or different departments in the City.

“Corporate Contract” means a Contract in which Goods and/or Services are acquired for various Client Departments in bulk by one single procurement process (i.e. by RFQ, RFP or RFT).

“Council” means the Council of the City of Hamilton.

“Designate” means a person authorized to act on the behalf of an Authorized Delegate.

“Emergency” means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the City, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level.

“Expanded Works” means approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to deliver the original approved work.

“General Manager” means the General Manager of a City department and includes an Executive Director.

“Goods” includes supplies, equipment, materials, structures and fixtures to be delivered, installed or constructed.

“Informal Quotations” means an informal request for prices on Goods and/or Services with an estimated procurement cost between $5,000 and up to but not including $50,000, and where comprehensive technical Specifications can be developed. Informal Quotations may be processed by the Client Department.

“Low Dollar Value Procurements” means the process of procuring Goods and/or Services with an estimated procurement cost of up to but not including $5,000.

“Lowest Compliant Bid” means a Bid with the lowest price meeting all requirements of a RFQ, RFP or RFT, subject to any rights or privileges reserved by the City contained in the respective procurement document, or unless otherwise approved by Council.

“Purchase Order” means a written offer to procure Goods and/or Services or a written acceptance of an offer, in a form acceptable to the City Solicitor.

“Purchasing Policy” means the Purchasing Policies approved by Council, as amended from time to time.

“Purchasing Procedures and Guidelines” means the Purchasing Procedures and Guidelines approved by the City’s Director of Financial Services, as amended from time to time.

“Purchase Requisition” means an internal online request by a Client Department to the Purchasing Section for procurement of Goods and/or Services.

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"Request for Quotations" or "RFQ" means a formal request for prices on specific Goods and/or Services from vendors where the Goods and/or Services have an estimated procurement cost between $50,000 and up to but not including $100,000, and where comprehensive technical Specifications can be developed. Requests for Quotations shall be processed through Centralized Purchasing.

"Request for Information" or "RFI" means a process where information is requested from vendors regarding the feasibility and availability of specific Goods and/or Services in the marketplace and to determine if there are enough suppliers to justify a Request for Proposals or Request for Tenders.

"Request for Proposals" or "RFP" means a formal request for prices and details on Goods and/or Services from vendors, where the Goods and/or Services may not be able to be fully defined or specified or when alternate methods are being sought to perform a certain function or service, at the time of the request.

"Request for Roster Candidates" or "RFRC" means a two year contract procurement document, whereby formal requests for prices and details with respect to specific consulting services are received from Vendors, with the intent of awarding work assignments to rostered candidates.

"Request for Tenders" or "RFT" means a formal request for prices on Goods and/or Services from vendors, where the Goods and/or Services are able to be fully defined or specified at the time of the request.

"Services" means all professional, consulting, construction or maintenance services.

"Sole Source" means there is only one known source of supply of particular Goods and/or Services.

"Specifications" means the detailed description of Goods and/or Services contained in a RFQ, RFP or RFT to the extent known or available to the Client Department.

"Sweatshop" means a facility where individuals manufacture, assemble or produce consumer goods in working conditions that constitute Sweatshop Conditions.

"Sweatshop Conditions" means working conditions that include any of the following:

(a) employees are not provided with working conditions that meet or exceed the International Labour Organization ("ILO") Conventions' standards governing forced labour (ILO Convention 29 – Forced Labour Convention, 1930) and (ILO Convention 105 – Abolition of Forced Labour Convention, 1957), child labour (ILO Convention 138 – Convention concerning Minimum Age for Admission to Employment – the "Minimum Age Convention, 1973" and United Nations Convention On The Rights Of The Child – November 20, 1989, Article 32), payment of wages (ILO Convention 95 - Protection of Wages Convention, 1949), hours of work, occupational health, occupational safety, and non-discrimination (ILO Convention 111 – Discrimination (Employment and Occupation, 1958)); and are in compliance with all applicable federal, state, provincial and local laws of the locality of manufacture; and

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(b) employees are compensated by their employer at an hourly rate below the poverty threshold; and

c) employees are subject to forced labour practices, whether in the form of involuntary prison labour, indentured labour, bonded labour or otherwise; and

d) employees are under the age of 18 are exposed to situations, in or outside the workplace, that are hazardous, unsafe or unhealthy; and

(e) employees are not provided with a minimum of one day off for every seven-day period; and

(f) employees are subject to physical, sexual, psychological abuse or harassment, verbal abuse, or any other form of abuse, including corporal punishment; and

(g) employees are not provided with a safe and hygienic workplace, including access to clean toilet facilities and safe drinking water.

"Time-Sensitive" means a situation for which the timing to complete the purchase is paramount but the time available to follow normal procedures is insufficient.
POLICY # 1 - Policy for Electronic Vendor Database

SECTION 4.1

(1) The City will make reasonable efforts to maintain an electronic vendor database of those vendors who have expressed an interest in doing business with the City and who have submitted a complete online “Bidder’s Application Form”. The electronic vendor database will be accessible to City staff via the City Enet.

(2) The City may remove a vendor’s name from consideration for a Contract and from the electronic vendor database where in the opinion of the Manager of Purchasing or Council, the commercial relationship between the City and such vendor has been detrimentally affected.

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POLICY # 2 - Policy for Pre-Qualification of Vendors

SECTION 4.2

(1) The purpose for pre-qualification of vendors is to ensure that each vendor intending to submit a Bid can demonstrate its ability to provide the necessary expertise and resources to satisfactorily complete the work required.

Pre-qualification will only be considered in the following circumstances:

(a) the work will require substantial project management by the City if the vendor is not appropriately experienced and could result in a substantial cost to the City;
(b) the Goods and/or Services to be purchased must meet national safety standards;
(c) the work involves complex, multi-disciplinary activities; specialized expertise, equipment, materials, or financial requirements;
(d) there could be a substantial impact on City operations if the work is not satisfactorily performed the first time;
(e) where time requirements necessitate efficient use of time and expertise; or
(f) any other circumstances deemed appropriate by the Manager of Purchasing.

(2) This is a two-step procurement process.

(a) Pre-qualification is the first step and requires vendors intending to submit a Bid to provide such information as, but not limited to:
   i. experience on similar work (firm and staff assigned);
   ii. references provided from other customers for similar work;
   iii. verification of applicable licences and certificates;
   iv. health and safety policies and staff training; and
   v. financial capability.

(b) Vendor submissions will be evaluated and ranked, and a short list of pre-qualified vendors will be invited to participate in the second step of the two step procurement process, being the RFP or RFT.
POLICY # 3 - Policy for Specifications

SECTION 4.3

(1) The preparation of the Specifications for Informal Quotations, Request for Quotations, Request for Proposals or Request for Tenders shall be the responsibility of the Client Department. Specifications shall be approved by the Client Department Authorized Delegate and shall be forwarded directly to the Purchasing Section with approval attached.

(2) The Purchasing Section shall have the authority to review and recommend improvements to the Specifications when deemed necessary. The Client Department shall cooperate with the Purchasing Section in the finalization of the Specifications. The Manager of Purchasing may reject any Specification not consistent with the Purchasing Policy.

(3) The City may issue a Request for Information (RFI). A RFI can be used to determine if there is sufficient vendor interest to justify proceeding with a competitive procurement process and/or to gain additional information on the Good and/or Service from the vendor community. The RFI would request detailed information such as, but not limited to, the background of the vendor and its key personnel, relevant experience, and what the vendor can offer the City. Any resulting competitive procurement process will be issued in accordance with Purchasing Policy, Section 4.5 – Policy for Determining Procurement Process.

(4) The following requirements shall be followed in the preparation of the Specifications:

(a) Specifications should be detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available to maintain a competitive procurement process.

(b) Where the Specifications requirements of the Client Department will result in a single source purchase, it shall be at the discretion of the Manager of Purchasing whether to authorize such Specifications or to require the Client Department to seek Council approval for such Specifications.

(c) Vendors may be requested to expend time, money or effort on the content or in the development of Specifications or otherwise help define a requirement to be contained in the Specifications or RFQ, RFP or RFT. A vendor who provides such assistance shall be deemed a consultant of the City, paid a fee and shall be unable to submit a Bid for which the Specifications apply unless exemption is requested and submitted prior to the issuance of the RFQ, RFP or RFT and written approval is given by the Manager of Purchasing.

(d) Notwithstanding any assistance in the preparation of the Specifications by a consultant, the Specifications shall be and remain the property of the City.

(e) Where it is not possible to prepare precise Specifications to issue a Request for Tenders, a Request for Proposals shall be issued. The Purchasing Section, in cooperation with the Client Department, shall prepare evaluation criteria and weightings for the criteria. The RFP shall clearly distinguish those requirements that are deemed mandatory and non-mandatory and shall clearly outline how these items will be evaluated.

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(f) When preparing the Specifications, the Client Department shall be knowledgeable of the Ontarians with Disabilities Act 2001, the Accessibility for Ontarians with Disabilities Act 2005 and its regulations and the Barrier Free Design Guidelines 2006 or the most recent version and apply those requirements with respect to procuring Goods and/or Services and in the development of the Specifications.

(g) When preparing the Specifications, the Client Department shall consider the amount of packaging that would be associated with the procurement of a Good. If the required level of packaging is felt to be too excessive, then the Specifications for those Goods will require the vendor to be responsible for and bear the cost for the removal and disposal of the packaging materials.
CORPORATE SERVICES
PURCHASING SECTION

POLICY # 4 - Policy for Approval Authority

SECTION 4.4

(1) Any person delegated Approval Authority pursuant to this policy shall ensure that an approved budget exists for the proposed procurement and that such procurement does not violate any City policies or any applicable law. Any such procurement shall also satisfy any applicable audit requirements of the City.

(2) The following body and persons shall have the respective Approval Authority as set out below:

(a) **Council** must approve budgetary funding for any procurement of a value greater than $250,000.

(b) **City Manager** or Designate must approve any procurement of a value of $100,000 or greater but not exceeding $250,000. The City Manager may also exercise the Approval Authority of a General Manager.

(c) **General Managers** are authorized to approve procurements of a value up to but not including $100,000, save and except in an Emergency wherein Section 4.10 shall apply. Only General Managers may further delegate such Approval Authority to their staff at the procurement values they deem appropriate. Staff who have been further delegated Approval Authority from their General Manager to approve procurements shall have no authority to delegate this Approval Authority to any other person.

(3) The Police Service Board, Hamilton Entertainment and Convention Facilities, Inc., CityHousing Hamilton Corporation and Hamilton Public Library Board will establish their appropriate approval and signing authorities.

(4) The Client Department in conjunction with the Purchasing Section shall submit a report to Council and the appropriate standing committee recommending award of a RFQ, RFT or RFP if ANY of the following conditions apply:

(a) The value of the Lowest Compliant Bid is in excess of the Council approved budget including any contingency allowance.

(b) The RFT or RFP is for a Corporate Contract.

(c) For capital projects, when the final cost of the proposed project exceeds the amount provided in the capital budget for that project by more than 10% or $250,000, whichever is less.

(d) The award is not being made for the Lowest Compliant Bid.

(e) Where a substantive vendor complaint has been filed with the Manager of Purchasing prior to award of a RFQ, RFT or RFP.

(f) Where in the opinion of the Manager of Purchasing, the Client Department's award recommendation is not in the best interest of the City.

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(g) There are Provincial or Federal government requirements for Council approval of a RFQ, RFT or RFP.

Otherwise, the General Manager and the City Manager, or their Designates, shall award in accordance with the provisions of the subject RFQ, RFT or RFP.

(5) Council may delegate further Approval Authority as it considers necessary from time to time, including but not limited to any extended time periods during which Council does not meet.

(6) The Director of Financial Services shall prepare a monthly status report to Council on any procurement of a value in excess of $100,000, which shall identify those procurements:

(a) which have been issued, but not yet closed,
(b) which have closed and under review, and
(c) which have been awarded or cancelled,

since the previous monthly status report.
POLICY #5 - Policy for Determining Procurement Process

Section 4.5

Sales taxes, excise taxes, goods and service taxes, duties and shipping shall be excluded in determining the procurement limit of Authorized Delegates and the type of procurement process to be followed.

(1) The following sub-sections set out the procurement process to be used for a Good and/or Service required by a Client Department.

(2) The dollar values identified in the following sub-sections represent the annual estimated procurement value for a Good and/or Service to be procured. The annual estimated procurement value is the cumulative value spent in one calendar year for a particular Good and/or Service.

(3) Where ever possible, it should be the intent of the Client Department to procure Goods and/or Services of like nature as a combined effort.
POLICY # 5.1 - Policy for Low Dollar Value Procurements
(up to but not including $5,000)

SECTION 4.5.1

(1) All Low Dollar Value Procurements shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy.

(2) The General Managers may delegate Approval Authority to their staff for Low Dollar Value Procurements. This purchasing function has been de-centralized and therefore, it is the responsibility of the respective General Manager to ensure that the Purchasing Policy is adhered to.

(3) Neither a RFQ, RFP nor RFT is required for Low Dollar Value Procurements.
CORPORATE SERVICES
PURCHASING SECTION

POLICY #5.2 - Policy for Informal Quotations
($5,000 – up to but not including $50,000)

SECTION 4.5.2

(1) All Informal Quotations shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy.

(2) For procurements where there are no applicable departmental Contracts or Corporate Contracts, Informal Quotations shall be obtained by the Client Department in the following manner:

(a) a minimum of three (3) Bids shall be obtained by any method of written communication unless otherwise approved by the Purchasing Section;
(b) in seeking the vendors for Informal Quotations, staff shall also use the electronic vendor database available through the City Enet;
(c) Bids must be received from a minimum of three (3) separate vendors;
(d) a “No Bid” response shall not be considered as a valid Bid;
(e) all vendors shall receive the same Informal Quotation written information;
(f) the Informal Quotation shall be awarded to the Lowest Compliant Bid, and
(g) all written Bids shall be retained in the Client Departmental files in accordance with Council approved by-laws for records retention.

(3) Staff are encouraged to seek more than the minimum three (3) written Bids to ensure a more competitive process.

(4) The Purchasing Section shall assist as requested by the Client Department, or when deemed necessary, with the Informal Quotation process. The Purchasing Section will also conduct audits to ensure the requirements of this section have been met, in accordance with Section 2 of the Purchasing Policy.

(5) An authorized online Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor.

(6) When a Client Department would like to issue a RFP in lieu of an Informal Quotation, the RFP shall be issued by Centralized Purchasing in the same manner as for Requests for Proposals in Section 4.5.3 of the Purchasing Policy.

(7) Exceptions to this policy include:
   (a) Section 4.10 - Policy for Emergency Purchasing
   (b) Section 4.11 - Policy for Negotiations
   (c) Section 4.12 - Policy for Cooperative Purchasing
POLICY #5.3 - Policy for Request for Quotations and Request for Proposals
($50,000 – up to but not including $100,000)

SECTION 4.5.3

(1) The Client Departments shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy. Where there are no applicable departmental Contracts or Corporate Contracts,

(a) The Request for Quotations process shall be used for Goods and/or Services with an estimated procurement cost between $50,000 and up to but not including $100,000 and where comprehensive technical Specifications can be developed.

(b) The Request for Proposals process shall be used for Goods and/or Services with an estimated procurement cost between $50,000 and up to but not including $100,000 and where comprehensive technical Specifications cannot be fully defined or specified, or when alternate methods are being sought to perform a certain function or service, at the time of the request.

(2) The Request for Quotations and Request for Proposals process must be applied through Centralized Purchasing.

(3) The RFQ and/or the RFP shall be awarded as follows:

(a) The Request for Quotations shall be awarded based on the Lowest Compliant Bid.

(b) The Request for Proposals shall be awarded in accordance with the evaluation criteria and weightings contained in the Request for Proposals document, subject to any rights or privileges reserved by the City contained in the procurement document, or unless otherwise approved by Council. However, in cases where the Client Department is not recommending award to the proponent offering the Lowest Compliant Bid, the Client Department will be required to issue a report to Council for approval of the award.

(4) All Request for Quotations and Request for Proposals shall be issued, opened and awarded in accordance with the procedures as determined by the Director of Financial Services.

(5) A Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor.

(6) Exceptions to this policy include:
   (a) Section 4.10 - Policy for Emergency Purchasing
   (b) Section 4.11 - Policy for Negotiations
   (c) Section 4.12 - Policy for Cooperative Purchasing

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POLICY #5.4 - Policy for Request for Tenders ($100,000 and greater)

SECTION 4.5.4

(1) The Request for Tenders process is used for Goods and/or Services with an estimated procurement cost of $100,000 or greater and where comprehensive technical Specifications can be developed.

(2) The Request for Tenders process must be implemented through Centralized Purchasing.

(3) All Requests for Tenders shall be issued and awarded in accordance with the tendering procedures as determined by the Director of Financial Services.

(4) The Request for Tenders shall be awarded based on the Lowest Compliant Bid.

(5) A Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor or Designate.

(6) Exceptions to this policy include:
   (a) Section 4.10 - Policy for Emergency Purchasing
   (b) Section 4.11 - Policy for Negotiations
   (c) Section 4.12 - Policy for Cooperative Purchasing
POLICY # 5.5 - Policy for Request for Proposals ($100,000 and greater)

Section 4.5.5

(1) The Request for Proposals process is used for Goods and/or Services with an estimated procurement cost of $100,000 or greater and where comprehensive technical Specifications cannot be fully defined or specified, or when alternate methods are being sought to perform a certain function or service, at the time of the request.

(2) The Request for Proposals process must be implemented through Centralized Purchasing.

(3) All Requests for Proposals shall be issued and awarded in accordance with the proposal procedures as determined by the Director of Financial Services.

(4) All Requests for Proposals shall clearly set out the evaluation criteria and weightings upon which an award of the Request for Proposals may be made.

(5) All proposals that meet the required terms, conditions and specifications outlined in the Request for Proposals document shall be evaluated based on the evaluation criteria and weightings, subject to any rights or privileges reserved by the City.

(6) Any award shall be made in accordance with the evaluation criteria and weightings contained in the Request for Proposals document, subject to any rights or privileges reserved by the City or as otherwise approved by Council. However, in cases where the Client Department is not recommending award to the proponent offering the Lowest Compliant Bid, the Client Department will be required to issue a report to Council for approval of the award.

(7) A Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor or Designate.

(8) Exceptions to this policy include:
(a) Section 4.10 - Policy for Emergency Purchasing
(b) Section 4.11 - Policy for Negotiations
(c) Section 4.12 - Policy for Cooperative Purchasing
POLICY # 6 - Policy for Unsolicited Proposals

Section 4.6

(1) Unsolicited proposals received by the City shall be reviewed by the Manager of Purchasing and the Client Department to determine if it is in the best interests of the City to follow a competitive process as outlined by the Purchasing Policy.

(2) Should the Manager of Purchasing and the Client Department determine that the unsolicited proposal is a unique Sole Source type offer that warrants further consideration the following shall apply:

(a) The Manager of Purchasing shall provide to the proponent a sample document of the City's minimum standard terms, conditions and requirements for acquiring Goods and/or Services.

(b) At the same time the Manager of Purchasing shall clearly indicate to the proponent that the City may require additional terms, conditions and requirements in excess of the minimum City requirements provided in the sample document once the proposal has been further evaluated. The Manager of Purchasing will confirm that the proponent recognizes that any Contract that may follow must comply with the City’s minimum standard terms, conditions and requirements.

(c) Should the Client Department wish to further investigate the unsolicited proposal through discussions with the vendor, the Client Department, prior to any discussions, shall take forward a report to the appropriate standing committee and Council outlining particulars of the unsolicited proposal and seeking direction from Council on the course of action to proceed.

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POLICY # 7 - Policy for Construction Contracts

Section 4.7

(1) Construction contracts must meet the requirements of the Purchasing Policy. Construction contracts of $100,000 or greater shall require both a Purchase Order and a Contract, in a form satisfactory to the City Solicitor.

(2) The City's Fair Wage Policy and Fair Wage Schedule shall be applied to all construction contracts of $100,000 or greater. The Fair Wage Policy and Schedule can be accessed by the City of Hamilton website under the Purchasing Section.
POLICY # 8 - Policy for Vendor Performance Evaluation

Section 4.8

(1) At the completion of every contract for Goods and/or Services of $50,000 or greater, the Client Department is responsible to complete a “Vendor Performance Evaluation Form”. The General Manager of the Client Department, in consultation with the Manager of Purchasing, will ensure this performance evaluation is completed for these Contracts. The General Manager or Designate of the Client Department shall forward a copy of the completed “Vendor Performance Evaluation Form” to the Manager of Purchasing.

(2) In the event of poor performance or non-performance of a vendor at any time during the term of the Contract, the General Manager or Designate of the Client Department shall complete the “Vendor Performance – Incident Reporting Form” as soon as reasonably possible after the occurrence.

(3) Documented poor performance or non-performance on City Contracts will be used to determine the eligibility of a bidder to continue to provide Goods and/or Services to the City on a current Contract and to determine their ability to participate on future City Contracts. Any vendor may be excluded from a bidding process due to documented poor or non-performance, where in the opinion of the Manager of Purchasing or Council, the commercial relationship between the City and such vendor has been detrimentally affected.

(4) Public Works shall be responsible for the vendor performance evaluation process with regard to construction Contracts issued under Section 4.7 in a format which includes feedback from area residents and elected officials.

(5) In the event of a vendor’s breach of a multi-year contract, the Manager of Purchasing shall have the discretion to either:

   (a) re-issue the RFQ, RFT or RFP; or
   (b) negotiate and enter into a new contract for the remaining years of the contract with the second lowest bidder of the original RFQ, RFT or RFP

whichever is in the best interests of the City.
POLICY # 9 - Professional and Consultant Services

Section 4.9

(1) Unless otherwise provided, Professional and Consultant Services shall be acquired in accordance with the Purchasing Policy.

(2) A Professional and Consultant Services Roster will be established every two years through a formal RFRC process. Work assignments presented to rostered candidates will be distributed on a rotational basis as well as a “best fit” basis and having an estimated procurement cost of less than $100,000. The General Manager or Designate shall award such works by direct appointment through the applicable roster captain. The applicable roster captain shall ensure that there is a reasonably equitable distribution of the works, based on the total dollar value of the work. This method allows the City to employ a number of different consultants while matching the particular talents of a consultant to the project needs.

(a) The General Manager of the Public Works Department and the Manager of Purchasing shall approve the appointment of rostered candidates.

(b) The General Manager of the Public Works Department shall be responsible to prepare an annual information report to Council on all assignments awarded including consultants used and a breakdown of the total cost utilized by each roster category.

(c) All work completed under this policy shall be approved in accordance with the Policy for Approval Authority, Section 4.4, with the exclusion of Item (4) (d).
POLICY # 10 – Policy for Emergency Purchasing

Section 4.10

(1) When the General Manager has declared an Emergency, Goods and/or Services shall be acquired by the most expedient and economical means. The Purchasing Section will provide cooperative assistance when requested to expedite any purchasing documents necessary to deal with the Emergency. The General Manager of the Client Department, upon declaration of an Emergency, shall provide the reasons for same and shall approve any purchase acquisition document issued under such conditions. For amounts exceeding $250,000, the General Manager shall issue an information report to the City Manager and to Council at its next scheduled meeting.

(2) Subsequent to the resolution of the Emergency, all transactions require an online requisition to be entered to complete the procurement process. The Client Department shall complete the Request for Use of Negotiation Policy / Emergency Reporting Form and forward it to the Manager of Purchasing for informational purposes.
POLICY # 11 – Policy for Negotiations

Section 4.11

(1) The Manager of Purchasing must authorize the Request for Use of Negotiation Policy form justifying the need to use this policy prior to City staff entering into any discussions with any vendor. This process may be adopted when any of the following conditions apply:

(a) Goods and/or Services are judged to be in short supply due to market conditions;

(b) where there is only one known source for the Goods and/or Services (Sole Source);

(c) where the Lowest Compliant Bid received is excessive in total cost or substantially exceeds the estimated procurement cost;

(d) when no Bids received are compliant and it is impractical to reissue the RFQ/RFP/RFT;

(e) when a single source for the supply of a particular Good and/or Service is being recommended because it is more cost effective or beneficial for the City;

(f) where a Contract has expired or will very shortly expire and unforeseeable circumstances have caused a delay in issuing a new RFQ/RFP/RFT;

(g) where a Time-Sensitive situation occurs, or

(h) where Expanded Works or Coordinated Works are appropriate in the circumstances.
POLICY # 12 – Policy for Cooperative Purchasing

Section 4.12

(1) The City may participate with other government agencies or public authorities in cooperative acquisition ventures for Goods and/or Services when it is in the best interest of the City to do so. Such cooperative acquisition ventures shall require the prior written approval of the Manager of Purchasing.

(2) The purchasing procedures and policies of the government agency or public authority initiating the procurement process will be followed.

(3) The City and each government agency or public authority will issue its own purchase order or contract for their respective Goods and/or Services.
POLICY # 13 – Policy for Authority to Execute Contracts

Section 4.13

(1) The General Manager of the Client Department and the City Manager, or their respective Authorized Delegate, shall execute acquisition Contracts initiated by such department on behalf of the City for all RFQ/RFP/RFT/RFRC awards approved in accordance with Section 4.4 of the Purchasing Policy.

(2) For all other Contracts that require Council approval, the City officials named in the Council resolution shall execute such Contracts on behalf of the City. Where City officials have not been named in the Council resolution, the Mayor and Clerk shall execute such Contract.

(3) All Contracts shall be in a form satisfactory to the City Solicitor.

(4) All Authorized Delegates will complete the "Notification of Signing Authority" form, which shall not be effective until approved and executed by the General Manager or City Manager, as the case may be, and forwarded to the City’s Financial Services Division for reference.
POLICY # 14 – Policy for Standardization

Section 4.14

(1) Standardization is a management decision-making process that examines a specific common need or requirement and then selects a Good and/or Service that best fills that need to become the standard.

(2) Wherever possible, when more than one City application exists for any Good and/or Service, a standard will be established.

(3) No standard shall be established unless approved by the Manager of Purchasing and Council or by the Standards and Approved Products Committee.

(4) Where the establishment of a standard will result in a single source purchase, that purchase shall also be approved by the Manager of Purchasing and Council or by the Standards and Approved Products Committee.

(5) The Manager of Purchasing shall have the authority to negotiate house accounts with original equipment manufacturers and licensed distributors of approved standardized products.

(6) The Standards and Approved Products Committee shall be responsible to prepare an annual information report to Council outlining the rationale for any standardization of Goods added to the City's Approved Products Listing, the number of Goods standardized and any standardized Good resulting in a single source purchase.
CORPORATE SERVICES
PURCHASING SECTION

POLICY # 15 – Policy for Procurement Cards

Section 4.15

(1) No employee shall use a procurement card to purchase Goods and/or Services unless appointed and authorized by such employee's General Manager and the City Manager to do so, following sound business practices. Any use of a procurement card shall be in accordance with the Purchasing Policy and all other applicable City by-laws and policies.

(2) The procurement card will be issued once the employee has read, signed and submitted the Procurement Card Agreement Form (set out in Appendix “B”), to the Procurement Card Administrator, which sets out in writing the employee’s responsibilities and restrictions regarding the use of the procurement card.

(3) All procurement cards issued will have a predetermined “single transaction limit”, a “monthly credit limit” and “blocked commodities” as determined and authorized by the General Manager of the applicable department and City Manager in consultation with the Director, Financial Services. All procurement cards will be blocked from obtaining cash advances.

(4) The program will be administered and audited by the Director, Financial Services or designate, who will maintain a master file of all procurement cards and card limits.

(5) The procurement card shall not be used:

(a) when a Contract is in effect for the Good and/or Service (unless pre-authorized in writing by the Manager of Purchasing);

(b) for personal purchases of any nature;

(c) for computer hardware/software (unless pre-authorized in writing by the Manager of Purchasing);

(d) for any long-term lease, license or rental agreement which is deemed material as defined by the City’s Lease Financing Policy; Appendix I to FCS04014 on Corporate Administration Committee Report # 04-005;

(e) for printing requirements that are required to be handled through the City Print Shop; and

(f) for any purchase of Goods and/or Services that may be prohibited under any other policy approved by Council.

(6) Vendors will not be rejected as a result of their non-acceptance of procurement cards.

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CORPORATE SERVICES  
PURCHASING SECTION

POLICY # 16 – Policy for Disposal of Surplus Goods

Section 4.16

(1) The disposal of surplus and obsolete equipment shall be evaluated on a case by case basis.

(2) The Manager of Purchasing, in conjunction with the Director of Financial Services, shall have the authority to sell, exchange, or otherwise dispose of Goods declared as surplus to the needs of the City, and where it is cost effective and in the best interest of the City to do so, items or groups of items may:

(a) be offered for sale to other City Departments, City Affiliates, other government agencies or public authorities; or

(b) be sold by external advertisement, formal request, auction or public sale (where it is deemed appropriate, a reserve price may be established); or

(c) be sold or traded to the original supplier or others in that line of business where it is determined that a higher net return will be obtained than following other procedures; or

(d) be donated to a non-profit agency; or

(e) be recycled; or

(f) in the event that all efforts to dispose of Goods by sale are unsuccessful, these items may be scrapped or destroyed if recycling is unavailable.

(3) No disposition of such Good(s) shall be made to employees, elected officials, or their family members unless such Good(s) are sold through external advertisement, formal request, auction or public sale and no conflict of interest exists. Prior to any such disposition, the employee shall declare their interest in writing to their General Manager, or in the case of an elected official to the City Manager, who will confirm whether any conflict of interest exists. Family members include those defined by the City’s Conflict of Interest Policy or such other similar policy currently in force.

(4) The Manager of Purchasing shall submit an annual report to the General Manager of Finance and Corporate Services summarizing the disposal of all surplus Goods pursuant to this policy.
POLICY # 17 – Policy for Conflicts of Interest

Section 4.17

(1) Employees of the City shall not have a pecuniary interest, either directly or indirectly, in any Contract with the City or with any person acting for the City in any Contract for the supply of Goods and/or Services for which the City pays or is liable, directly or indirectly to pay unless such interest has been declared pursuant to the City's Conflict of Interest Policy or such other similar policy currently in force.

(2) Employees of the City are required to declare any pecuniary interest, either direct or indirect, in writing to their General Manager with a copy to the Manager of Purchasing indicating the specific nature of the conflict. Any conflict of interest that cannot be isolated and resolved will be reported to the appropriate standing committee of Council.

(3) Members of Council are required to declare any pecuniary interest direct or indirect, and its general nature, which may result in a conflict-of-interest pursuant to the Appendix "H" to the City's Procedural By-Law (No. 03-301, as amended) being the Code of Conduct for Members of Council, or such other similar by-law currently in force.

(4) Any Contract with the City, or with any person acting for the City, and any Contract for the supply of Goods and/or Services to a contractor for work for which the City pays or is liable, directly or indirectly, to pay in which a member of Council or any employee of the City has an undeclared pecuniary interest, directly or indirectly may be voided.

(5) All City employees and others participating in the development of the specifications and/or evaluation of any Bid will be required to complete and sign a Conflict of Interest Form.
CORPORATE SERVICES
PURCHASING SECTION

POLICY # 18 – Policy for Vendor Complaint Resolution

Section 4.18

(1) The City of Hamilton encourages the most open, competitive bidding process for the purchase of Goods and/or Services acquired, through the RFQ, RFT and RFP procurement processes and the objective and equitable treatment of all vendors.

(2) The City, however, recognizes that mistakes and misunderstandings may occur; vendors may feel aggrieved and may seek to dispute the recommendation of an award of a Contract. To maintain the integrity of the process, vendors who believe they have been treated unfairly can make this known by contacting the Manager of Purchasing prior to the award of the Contract, who will follow the documented procedure for vendor complaint resolution.

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POLICY # 19 – Policy for Employee Compliance with Purchasing Policy

Section 4.19

(1) An employee who fails to act in accordance with the provisions of the Purchasing Policy will be subject to appropriate disciplinary action up to and including termination of employment. Council, the public, and the business community must have confidence in the integrity of the City employees.
CORPORATE SERVICES
PURCHASING SECTION

POLICY # 20 – Policy for Review of the Purchasing Policy

Section 4.20

(1) The Manager of Purchasing shall submit to the Appropriate standing Committee of Council an annual report recommending any changes to the Purchasing Policy to meet the needs and requirements of the City to operate in an efficient and cost effective manner and in accordance with all applicable laws.

(2) All changes to the Purchasing Policy require the approval of Council.

(3) Changes to Purchasing Procedures and Guidelines require the approval of the Director of Financial Services and the General Manager of Finance and Corporate Services.

(4) On a periodic basis the City shall refer the Purchasing Policy to the City's Internal Auditor for review and to evaluate the effectiveness of the Purchasing Policy.
Section 4.21

(1) The City of Hamilton does not wish to encourage the use of consumer goods or products manufactured, assembled or produced in factories where persons and, in particular, children are used as slave or forced labour or in other exploitive manners which restricts the person's freedom or impedes the child's development. The City will consider the supply of consumer goods or products manufactured under such exploitive manners as a negative practice of the vendor.

(2) The City will not knowingly accept consumer goods or products manufactured, assembled or produced in a Sweatshop or under Sweatshop Conditions.

(3) The determination of compliance with this Policy shall be in the absolute discretion of the Manager of Purchasing. The Manager of Purchasing may, but is not obligated to, request further information and documentation from the vendor to confirm compliance; and may base his or her determination on information provided by Canadian or international certification or compliance agencies or groups, workers or labour unions or organizations, manufacturers, consumer groups, international organizations, ILO or United Nations sources and other parties.

(4) If any consumer goods or products supplied under a RFQ/RFP/RFT are determined by the Manager of Purchasing to be manufactured, assembled or produced in contravention to this policy and/or the certificate required hereunder, the City reserves the right, at its absolute discretion, to:

(a) return all the goods to the vendor and require the vendor to replace, within thirty (30) days from the date of notification by the City, the non-compliant goods or products with goods or products, of at least equal value, complying with this policy and all other requirements and specifications of the RFQ/RFP/RFT, all at no cost to the City; or

(b) require the vendor, within thirty (30) days from the date of notification by the City, to provide the City with conclusive evidence that the consumer goods or products have not been manufactured, assembled or produced in contravention of this policy, failing which the City may terminate the Contract without any compensation and without notice to the vendor.

(5) If the City terminates a Contract with a vendor as a result of a breach of this policy, the City shall cease to be liable to the vendor or to any other person for any unpaid amounts that would otherwise have been payable under the terms of the Contract and shall not be under any obligation to return to the vendor any product supplied by the vendor under the Contract.

(6) Child Labour Produced Goods Unacceptable

The City fully subscribes to the United Nations Convention on the Rights of the Child and, in particular, Article 32 of the Convention that requires that a Child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the Child's health or physical, mental, spiritual, moral or social

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development. The City reserves the right to terminate any Contract unconditionally and without liability or compensation whatsoever to the City in the event that consumer goods received from a vendor are discovered to have been manufactured, produced or assembled in a Sweatshop or in non-compliance with the national labour laws and regulations with respect to child employment and/or non-compliance with the United Nations Convention on the Rights of the Child.

(7) A vendor shall certify the following on the Form of Quotation/Form of Proposal/Form of Tender to be included in an RFQ/RFP/RFT, as the case may be:

“We hereby represent and certify the foregoing:

- all goods or products supplied under this quotation/proposal/tender have not been manufactured, assembled or produced, either wholly or in part, in a Sweatshop, as defined in the City of Hamilton’s Purchasing Policy or by child labour;
- that any goods or products found to be supplied in contravention of the City’s Anti-Sweatshop Policy will be returned to us, at our cost and at no cost whatsoever to the City, and that the City has the option to have the goods or products replaced by us with product of at least equal value, meeting specifications of the quotation/proposal/tender, or the City may terminate the contract without any compensation whatsoever to us.

We hereby acknowledge that the City has been induced to consider this quotation/proposal/tender on the basis of this representation and certification.

We further acknowledge that the City shall have the right to reject our Bid, Proposal or Quotation, terminate any contract made, and collect any of its losses or damages arising out of our breach of the City of Hamilton’s Purchasing Policy.”
POLICY # 22 – Policy for In-House Bid Submissions

Section 4.22

(1) In-house Bid submissions will be considered when contemplating a transfer of services from internal services to external services or vice versa.

(2) The General Manager of the Client Department submitting an in-house Bid shall obtain Council approval prior to submitting such a Bid. The Client Department’s report to Council seeking such approval shall include as a minimum:
   (a) the members of the in-house Bid submission team;
   (b) which costs will be included in the Bid and how costs will be determined; and
   (c) the rationale for submitting an in-house Bid.

(3) The RFP or RFT documents to be utilized, as applicable, shall clearly indicate:
   (a) an in-house Bid is being considered for the RFP/RFT;
   (b) any advantages that the in-house Bid will have over other bidders by virtue of it being an in-house Bid.

(4) The integrity of the evaluation process will be maintained when evaluating an in-house Bid as follows:
   (a) No member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services shall have any communications with a member of the evaluation team or an elected official concerning the subject RFP or RFT, as the case may be, except in accordance with the communication and any interview provisions contained in the applicable RFP/RFT;
   (b) No member of the evaluation team or an elected official shall have any communications with a member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services, except in accordance with the communication and any interview provisions contained in the applicable RFP/RFT;
   (c) No member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services shall participate in the development of the subject RFP/RFT nor shall such persons have any communications with any person participating in the development of the subject RFP/RFT;
   (d) The same rules shall govern the submission of the in-house Bid as will apply to any other bidder, unless expressly provided otherwise in the RFP/RFT document; and
   (e) The evaluation of Bids shall be objective and the process shall avoid any unfair bias towards either the in-house or external Bids.
CORPORATE SERVICES
PURCHASING SECTION

POLICY # 23 – Policy for Participation of Elected City Officials in the Procurement Process

Section 4.23

(1) Elected City officials may participate in the procurement process in the narrowly defined circumstances described in this policy for those specific procurement projects identified by Council.

(2) Elected City officials may participate as members of a steering committee for significant procurement projects identified by Council.

When Council identifies a significant procurement project for which elected City officials are to participate as members of a steering committee, Council will also address the following issues:

(a) the extent of the elected City officials’ involvement in the procurement process to ensure that they are able to provide input prior to the issuance of the procurement documents and to oversee the procurement process, but not function in a decision-making capacity;

(b) the selection of elected City officials who are able to comply with Section 4.17 of the Purchasing Policy (Policy for Conflicts of Interest) and who do not otherwise have a perceived or actual conflict of interest that would impair their ability to be impartial; and

(c) the number of elected City officials to participate.

(3) Elected City officials may not participate in the procurement process where they are required to be in an evaluation capacity. Their involvement in the approval capacity of the procurement process is limited to what is stipulated in Policy # 4 - Policy for Approval Authority.
POLICY # 24 – Policy for Solicitation of Vendors

Section 4.24

(1) There shall be no solicitation for sponsorships or donations from current or potential vendor for City or staff initiatives.
SCHEDULE A – Statement of Ethics for Public Purchasers

(1) The Ontario Public Buyers Association's Code of Ethics is based upon the following tenets and all employees who are authorized to purchase Goods and/or Services on behalf of the City are to adhere to the following.

(a) Open and Honest Dealings With Everyone Who is Involved in the Purchasing Process. This includes all businesses with which this City contracts or from which it purchases Goods and/or Services, as well as all members of our staff and of the public who utilize the services of the Purchasing Section.

(b) Fair and Impartial Award Recommendations for All Contracts and Tenders. This means that we do not extend preferential treatment to any vendor, including local companies. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.

(c) An Irreproachable Standard of Personal Integrity on the Part of All Those Designated as Purchasing Representatives for This City. Absolutely no gifts or favours are accepted by the purchasing representatives of this City in return for business or the consideration of business. Also, the purchasing representatives of this City do not publicly endorse one company in order to give that company an advantage over others.

(d) Cooperation With Other Public Agencies in Order to Obtain the Best Possible Value for Every Tax Dollar. This City is a member of a cooperative purchasing group. Made up of several public agencies, this group pools its expertise and resources in order to practise good value analysis and to purchase Goods and/or Services in volume and save tax dollars.

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SCHEDULE B – Recurring and Non-competitive Expenditures

Items listed below are exempt from the requirements of the Purchasing Policy, save and except for Section 4.4 - Approval Authority. Orders for payment listed in Item 1.f) Insurance claims, legal settlements and arbitration awards will have the appropriate approvals from the department initiating the request in place of those approvals in Section 4.4 – Approval Authority.

(1) Employer’s General Expenses
   (a) Insurance premiums
   (b) Debt payments
   (c) Grants and levies
   (d) Licenses (for example, vehicle, elevators, radios)
   (e) Real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like
   (f) Insurance claims and adjudications, legal settlements and arbitration awards
   (g) Refundable travel expenses
   (h) Other employee related expenses, such as: memberships in professional organizations, staff attendance of seminars, workshops, trade shows or conferences. This shall not include any training specifically designed for the City.

(2) Professional Services
   (a) Medical Professional Services
   (b) Expert Witnesses
   (c) Confidential Items (Forensic Audits)
   (d) Outside Legal Counsel on an individual file basis; however where the City Solicitor proposes to provide multiple files in an area of law to select outside legal counsel for a defined period of time, a competitive procurement process is to be followed in accordance with the provisions of the Purchasing Policy.

   NOTE: An annual report will be issued to Council by the City Solicitor detailing all contract awards for outside legal counsel.

(3) Special Services
   (a) Community Service Providers (including Daycare, Lodging Homes, Nursing, Homemakers, Shelter for the Homeless, Funeral Services, Community Outreach Programs and Prenatal Care & Education.)
   (b) Appraisers
   (c) Committee Fees

(4) Utilities
   (a) Electricity
   (b) Postal services
   (c) Water
   (d) Natural gas
   (e) Communications, for example: telephone, cable

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(5) **Government Bodies** (Federal, Provincial or Municipalities) and Government Legislative Bodies.

(6) **Other**

   (a) Antiques and Artifacts (shops, sales, repairs, but not including restoration)

   (b) Acquisition of Art (but not including commissioned works of art)

   (c) Publications (including newspapers, periodicals, magazines or books)

   (d) Maintenance and Licensing Software purchases for systems previously acquired.

   (e) Purchases of goods for the purpose of retail sales (re-sale) by the City (not including items that bear the City of Hamilton logo or insignia)

   (f) Media advertising
PROCEDURE # 3 - Procedure for Specifications

SECTION 4.3

The purpose of this procedure is to set out the guidelines for developing Specifications for the procurement of Goods and/or Services.

(1) The preparation of the Specifications shall be the responsibility of the Client Department. Specifications shall be approved by the Client Department Authorized Delegate and shall be forwarded directly to the Purchasing Section with approval attached.

(2) When preparing the Specifications, the Client Department shall:

(a) be knowledgeable of the Ontarians with Disabilities Act 2001, the Accessibility for Ontarians with Disabilities Act 2005 and its regulations and the Barrier Free Design Guidelines 2006, or the most recent version and apply those requirements with respect to procuring Goods and/or Services and in the development of the Specifications. (Barrier Free Design Guidelines can be accessed by all City staff on the City Enet site by navigating to “You Should Know” and clicking on “Barrier-Free Design Guidelines”);

(b) consider the amount of packaging that would be associated with the procurement of a Good. If the required level of packaging is felt to be too excessive, then the Specifications for those Goods will require the vendor to be responsible for and bear the cost for the removal and disposal of the packaging materials;

(c) for construction projects over $100,000, be knowledgeable of the City’s Fair Wage Policy and Schedule and apply its requirements in the development of the Specifications (the Fair Wage Policy and Schedule can be accessed by the City of Hamilton website under the Purchasing Section); and

(d) be knowledgeable of the Policy for Anti-Sweatshop Procurement and apply its requirements in the development of the Specifications.

(3) The following requirements shall be followed in the preparation of the Specifications:

(a) Specifications should be detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available to maintain a competitive procurement process.

(b) Where the Specifications requirements of the Client Department will result in a single source purchase, it shall be at the discretion of the Manager of Purchasing whether to authorize such Specifications or to require the Client Department to seek Council approval for such
Specifications.

(c) Vendors may be requested to expend time, money or effort on the content or in the development of Specifications or otherwise help define a requirement to be contained in the Specifications or RFQ, RFP or RFT. A vendor who provides such assistance shall be deemed a consultant of the City, paid a fee and shall be unable to submit a Bid for which the Specifications apply.

(d) Notwithstanding any assistance in the preparation of the Specifications by a consultant, the Specifications shall be and remain the property of the City.

(e) Where it is not possible to prepare precise Specifications to issue a Request for Tenders, a Request for Proposals shall be issued. The Purchasing Section, in cooperation with the Client Department, shall prepare evaluation criteria and weightings for the criteria. The RFP shall clearly distinguish those requirements that are deemed mandatory and non-mandatory and shall clearly outline how these items will be evaluated.

Policy:
- Section 4.3, Policy #3 - Policy for Specifications
- Section 4.14, Policy #14 - Policy for Standardization
- Section 4.21, Policy #21 - Policy for Anti-Sweatshop Procurement

Reference:
- Conflict of Interest Form
- Barrier Free Design Guidelines 2006 or most recent version
- Ontarians with Disabilities Act, 2001
- Accessibility for Ontarians with Disabilities Act, 2005
- City of Hamilton Fair Wage Policy and Schedule
PROCEDURE # 23– Procedure for Participation of Elected City Officials in the Procurement Process

Section 4.23

The purpose of this Procedure is to set out guidelines for the participation of elected City officials in the procurement process for specific procurement projects identified by Council.

(1) Elected City officials participating in the procurement process shall read and comply with Section 4.17 of the Purchasing Policy (Policy for Conflicts of Interest) and shall complete a Conflict of Interest form and submit it to the Manager of Purchasing prior to any involvement in the procurement process.

(2) Any involvement in the procurement process contemplated by an Elected Official shall not include the evaluations of any submissions received.

Policies:

- Section 4.3, Policy #5.3 - Policy for Request for Quotations and Request for Proposals ($50,000 – up to but not including $100,000)
- Section 4.3, Policy #5.4 - Policy for Request for Tenders (over $100,000 and greater)
- Section 4.3, Policy #5.5 - Policy for Request for Proposals (over $100,000 and greater)
- Section 4.3, Policy #17 – Policy for Conflicts of Interest
- Section 4.3, Policy #23 – Policy for Participation of Elected Officials in the Procurement Process

Reference:

Conflict of Interest Form
Using Fairness Commissioners in Major Projects
Five Critical Considerations

As the deals keep getting bigger and the stakes keep getting higher, the risks of failure become more pronounced. With recent spending scandals putting a spotlight on government procurement, public institutions are under increased pressure to ensure that their contract awards are fair and transparent.

To help achieve these ends, Justice Bellamy’s Toronto Computer Leasing and Toronto External Contracts Inquiries Report ("the Bellamy Report") recommends the use of fairness commissioners for major projects. As the Bellamy Report notes:

This is an expanded version of a column that originally appeared in the January/February 2007 issue of Purchasing b2b
Using Fairness Commissioners in Major Projects
Five Critical Considerations

"... the use of fairness commissioners is an important emerging risk mitigation tool aimed at strengthening both the reality and perception of integrity in public procurement. A fairness commissioner is an individual who monitors the procurement process with a view to:

Providing the purchasing organization with assurance that procurement management practices and processes are of the highest standards.

Communicating/demonstrating to external and internal observers that fairness, objectivity, impartiality, clarity, openness & transparency has been maintained."

A fairness commissioner can add significant value to a project by providing independent arms-length oversight that increases confidence among the supplier community and public at large over the integrity of a procurement process. While the Bellamy Report does not preclude the use of internal staff to fulfill this role, it notes that "For larger, more complex projects, it is much more likely to be an external expert."

The following discussion canvasses five critical details that should be addressed by a public institution when it is thinking about retaining a fairness commissioner for a major project.
Using Fairness Commissioners in Major Projects
Five Critical Considerations

1. Selecting the Right Project

The Bellamy Report recommends using fairness commissioners for major projects. While there is no single criterion for what constitutes a major project, high-value, high-profile, complex and controversial projects are the primary candidates.

While some jurisdictions have developed a formal policy to help determine when to retain a fairness commissioner, most public institutions have no official policy. To help promote a consistent approach, all public institutions should adopt a formal policy for fairness commissioners.

2. Finding the Right Skill Set

Once the decision to retain a fairness commissioner has been made, the purchasing organization should consider the appropriate skill set required for the project.

The ideal fairness commissioner understands the business in question, has experience working within large government bureaucracies, has substantive knowledge of the law and practice of public procurement and has the judgment to effectively balance these various perspectives and provide practical input to the project team.
Using Fairness Commissioners in Major Projects
Five Critical Considerations

3. Ensuring Independence

As the Bellamy Report notes, to be effective, a fairness commissioner should have a degree of independence from the project team:

"Particularly for complex projects, fairness commissioners are usually independent, external third parties, typically in the form of consultants. As noted earlier, internal staff can be used, particularly for smaller, less complex projects. However, experts caution that it is important to ensure that the internal person has both objectivity and independence from the procurement decision-makers."

In other words, a fairness commissioner must have sufficient independence to provide an effective check-and-balance.

4. Defining the Mandate

The purchasing organization should clearly establish the role of the fairness commissioner at the outset of a project. As the Bellamy Report notes, while one of the key functions of a fairness commissioner is to ensure the fairness of the evaluation process, a fairness commissioner can also play a role during the preliminary planning phases of a project. Since the role may vary from one project to the next, confirming the fairness commissioner's mandate is a critical preliminary detail that should be addressed during the initial stages of project planning.
Using Fairness Commissioners in Major Projects
Five Critical Considerations

5. Striking the Right Balance

Since leading jurisdictions are increasingly retaining fairness commissioners for their major projects, it is likely only a matter of time before they become a generally recognized practice for major projects. However, as the Bellamy Report notes:

“A fairness commissioner should be seen as an adjunct to the procurement process, not as a substitute for the procedures, policies, and conduct of staff that show commitment to fairness and transparency in procurement.”

At the end of the day it is the public institution that is ultimately responsible for both the fairness of the process and the success of the project.

While the process must be fair and must be seen to be fair, the transparency and fairness mandates must be balanced against other critical objectives.

Those other objectives include getting a good deal for the taxpayer within reasonable timeframes and navigating a tendering terrain that is full of legal risk. While a project team should carefully integrate fairness considerations into its overall project governance, it should be careful to balance fairness concerns with other critical project priorities.