

THE CORPORATION OF THE TOWN OF EAST GWILLIMBURY

BY-LAW NUMBER 2004-121

Being a By-law to Define the Procurement Policies and Procedures for the Town of East Gwillimbury

WHEREAS, Pursuant to Section 271 of the Municipal Act, S.O. 2001, c25, the Council of the Corporation of the Town of the East Gwillimbury, is required to ensure compliance with certain procurement requirements and adopt in the form of a by-law policies regarding its procurement of goods and services;

NOW THEREFORE, be it resolved that the Council of the Corporation of the Town of East Gwillimbury enacts as follows:

Table of Contents

1.	PURPOSES, GOALS, AND OBJECTIVES OF THIS BY-LAW	2
2.	DEFINITIONS	2
3.	APPLICATION	6
4.	RESPONSIBILITIES AND AUTHORITIES	6
5.	RESTRICTIONS AND EXCEPTIONS	7
6.	PRESCRIBED COUNCIL APPROVAL	8
7.	PROCUREMENT PROCESS AND METHODS	9
8.	GUARANTEES OF CONTRACT EXECUTION AND PERFORMANCE	16
9.	BID IRREGULARITIES	17
10.	SUPPLIER/CONTRACTOR PERFORMANCE	17
11.	REPORTING TO COUNCIL	17
12.	BID REVIEW COMMITTEE	17
13.	ACCESS TO INFORMATION	18
14.	SURPLUS STOCK	18
15.	BY-LAW REVIEW	18
16.	SHORT TITLE	18
	SCHEDULE "A"	19
	SCHEDULE "B"	20
	SCHEDULE "C"	23

1. PURPOSES, GOALS, AND OBJECTIVES OF THIS BY-LAW

The purposes, goals, and objectives of this by-law and of each of the methods of procurement authorized herein are:

- a) To encourage competition among Suppliers/Contractors;
- b) To make Service and product providers accountable to the municipality and the public;
- c) To provide the highest level of government Service at the least possible cost;
- d) To ensure fairness, objectivity between Bidders during the procurement process;
- e) To the extent possible, to ensure openness, accountability and transparency while protecting the financial best interests of the Corporation and those of the Corporation's employees and elected officials;
- f) To obtain the best value for the Corporation when procuring Goods and Services and Construction;
- g) To avoid conflicts between the interests of the Corporation and those of the Corporation's employees and elected officials;
- h) To promote respect for International/Interprovincial Trade Treaties or Agreements;
- i) To encourage the procurement of Goods and Services with due regard to the preservation of the natural environment, Suppliers/Contractors may be selected to supply Goods made by methods resulting in the least damage to the environment and supply Goods incorporating recycled materials where proven to be practicable.
- j) To promote, and incorporate, whenever possible, the requirements of the Ontarians with Disabilities Act (ODA) (current version) in procurement activities of the Corporation; and
- k) This by-law will be reviewed every five (5) years or earlier, to evaluate its effectiveness;

2. DEFINITIONS

2.1 In this bylaw,

"Award" means authorization to proceed with the purchase of Goods, Services and Construction from a chosen Supplier/Contractor;

"Bid" means an offer or submission from a Supplier/Contractor in response to a Call for Bid and in accordance with the terms and conditions of the Corporation's Bid documents;

"Bidder" means one who submits a response to a Call for Bid;

"Bid Review Committee" means a formal committee to review Bid irregularities as required;

“Bid Security” means the form of security required by the terms and conditions of Call for Bid documentation to guarantee that the successful Bidder enters into a Contract with the Corporation, as required by section Guarantees of Contract Execution and Performance of this by-law;

“Call for Bid” means a formal request for Bid, on the terms and conditions set forth in the Corporation's Bid documents, that may be in the form of a Request for Quotation (RFQ), Request for Pre-Qualifications (RFPQ), Request for Tender (RFT), Request for Proposal (RFP);

“Conflict of Interest” means a situation where an individual [an elected official, officer or employee of the Corporation] has a direct or indirect interest in any business that provides Goods, Services or Construction to the Corporation, and who fails to disclose such an interest and who does not refrain from participation in, or influencing of the purchasing process; and includes the giving or receiving of a direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any business or individual that provides advice, Goods, Services or Construction to the Corporation or family member of such business that provides Goods, Services or Construction.

“Construction” means a Construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the Construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional Services related to the Construction contract unless they are included in the specifications for the procurement;

“Consulting and Professional Services” means those Services requiring the skills of a professional for a defined Service and includes architects, engineers, designers, surveyors, planners, accountants, auditors, management professionals, marketing professionals, software and information technology experts, financial consultants, lawyers, law firms, real estate agents and brokers, environmental planners and engineers, hydrogeologists, transportation planners and engineers, communications consultants and any other consulting by professional Services which may be required by the Corporation;

“Contract” means a binding agreement between two or more parties that creates an obligation to do or provide a particular thing or Service;

“Contractor” means the Successful Bidder to whom the Contract is awarded and undertaking the execution of the Work under the terms of the Contract;

“Co-operative Purchasing” means the combining of requirements of two or more government agencies in order to obtain the benefits of volume purchases and/or reduction in administrative cost.

“Corporation” means the Corporation of the municipality and its associated agencies, boards and/or commissions;

“Council” means the Council of the Corporation, Commission, or Board;

“Department” means an operational Department of the Corporation

“Department Head” means any Director, Commissioner or Manager of the Corporation, who is responsible for the operational Department;

"Electronic Bidding (Fax, Email or Internet)" means a method of issuing and receiving written Bids where the process of issuing and receiving Bids by fax, email or internet is considered appropriate;

"Extraordinary Circumstance (Emergencies) Purchases" means an event or circumstance where the immediate purchase of Goods or Services or the entering into of a Construction Contract is essential or necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruption of essential Services or damage to public property or any other expenditure that is necessary to respond to any emergency of the Corporation or as required under the Emergency Plan Act;

"Financing Lease" means a lease which allows for the provision of Goods, Services or Construction if the lease may or will require payment by the Corporation of financing, interest, bonuses, premiums or other charges or costs for the Goods, Services or Construction in compliance with Ontario Regulation 799/94 (as amended) made under the *Municipal Act, 2001* (as amended);

"Goods" means moveable property including:

- the costs of installing, operating, maintaining, or manufacturing such moveable property, and
- raw materials, products, supplies, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a Construction Contract;

"In House Bid" means a bid made by a Department, submitted in response to a Call for Bid, where the provision of the Good, Service or Construction will be provided entirely by the employees of the Corporation;

"Low Value Purchase" (LVP) means a purchase of Goods, Services or Construction which is random in nature, is not included as part of a Price Agreement, is not available out of the Corporation's inventory and does not exceed a value of \$1,000.00;

"Lowest Compliant Bid" means the Bid that would provide the Corporation with the desired Goods, Services and Construction at the lowest cost, meets all the specifications and contains no major irregularities (Refer to Schedule "B" attached);

"Price Agreement" means an agreement between the Corporation and the Supplier/Contractor of a Good, Service or Construction arrived at following a competitive Bid process, whereby the Supplier/Contractor commits to the Corporation to provide Goods, Services or Construction, as and when needed by the Corporation, at a pre-determined price, for a pre-determined period of time, upon pre-determined terms and conditions;

"Pre-qualification Submission" means a detailed written Proposal submitted in response to a Request for Pre-qualification (RFPQ) but which does not create any contractual obligation between the party submitting the Pre-qualification submission and the Corporation, but which may be a pre-condition to further procurement Contracts with the Corporation;

"Procurement" means the combined functions of purchasing, inventory control, transportation, receiving, inspection, salvage and disposal operations.

"Proposal" means an offer submitted in response to a Request for Proposal (RFP), acceptance of which may be subject to further negotiation;

"Proponent" means one who submits a response to a Request for Proposal (RFP);

"Purchase" means the act and function of responsibility for the acquisition of Goods, Services or Construction;

"Purchase Order" means a written order to a Supplier/Contractor formally stating all terms and conditions for the purchase of Goods, Services or Construction or a written acceptance of an offer received in accordance with this by-law;

"Purchasing Division" means the Department responsible for procurement of Goods, Services, and Construction for the Corporation;

"Purchasing Manager" means the Purchasing Manager or designate who is responsible for the Corporation's centralized procurement function and is hereby authorized to act as agent in all such matter pertaining thereto;

"Quotation" means a binding offer submitted in response to a Request for Quotation (RFQ);

"Request for Expressions of Interest" (RFI) means a request made by the Corporation to the market place for the purposes of compiling a list of persons or corporations who may be interested in providing Goods, Services, or Construction to the Corporation from time to time. Acceptance of an expression of interest by the Corporation does not create any contractual obligation between the party submitting the expression of interest and the Corporation, but may be a precondition to Pre-qualification or further procurement Contracts with the Corporation;

"Request for Pre-qualification" (RFPQ) means a request for the detailed submission of the experience, financial strength, education, background and personnel of persons, firms or corporations who may, from time to time, qualify to supply Goods, Services and Construction to the Corporation;

"Request for Proposal" (RFP) means a request for proposals made pursuant to section Request for Proposal (RFP), of this by-law, which may or may not result in further negotiation, or the creation of Contractual obligations between the parties, depending on the terms of the Request for Proposal (RFP);

"Request for Quotation" (RFQ) means a request for quotations for the provisions of Goods, Services or Construction to the Corporation made pursuant to section Request for Quotation (RFQ), of this by-law;

"Service" means a contract for labour to perform a service to meet a specific requirement;

"Sole Source Purchase" means the purchase of a Good, Service or Construction where there is only one available Supplier/Contractor of that Good, Service or Construction that meets the needs or requirements of the Corporation;

"Single Source Purchase" means a Contract for the purchase of Goods and Services entered into after soliciting and negotiating only with one source, usually because of the technology required or uniqueness of the Service provided;

"Supplier" means the Successful Bidder to whom the Contract is awarded for goods and services;

"Two Phase Bid" means a Bid submitted in response to a Call for Bid, which requires the submission of the Bid in two (2) phases;

"Total Cost" means the project cost including all applicable taxes, but exclusive of any rebates;

2.2 To establish the definition of any other purchasing term not herein included, reference shall be made to the latest edition of the National Institute of Governmental Purchasing Inc's (NIGP) and the Purchasing Management Association of Canada (PMAC) Dictionary of Purchasing Terms.

3. APPLICATION

- 3.1 This by-law shall apply to all Departments of the Corporation and public agencies, boards, and commissions prescribed in this by-law.
- 3.2 That Schedules A - C (attached hereto) form part of this by-law, and may be amended by the Treasurer without a requirement of a report to Council, provided such amendments have been approved by the Chief Administrative Officer and amended Schedule(s) has been circulated to affected staff.
- 3.3 All provisions of this by-law are subject to Council approved estimates in the approved budget, with the exception of Section 7.3.5 Extraordinary Circumstance (Emergencies) Purchases

4. RESPONSIBILITIES AND AUTHORITIES

- 4.1 Department Heads shall have the responsibility and authority for all procurement activity within the prescribed limits of this by-law (including recommendation of contract award), subject to all of the following:
 - a) all of the purposes, goals, and objectives of section Purchases, Goals, and Objectives of this by-law shall be complied with;
 - b) all procurement activities and decisions shall be authorized by this by-law and shall be carried out within the financial and other limits set out herein;
 - c) no procurement activity or decision shall be contrary to any specific direction of the Chief Administrative Officer, the Purchasing Division or Council;
 - d) monitoring all Contract expenditures and ensuring that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
 - e) ensuring that all Goods, Services and Construction contracted for, have in fact been received;
 - f) exercise of all authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts with Council approved estimates; and
 - g) a determination being made by the Treasurer that the required funding can reasonably be expected to be made available in the current, or future years.
- 4.2 The Purchasing Division shall be responsible for:

- a) providing procurement advice and Services, including all forms, Contracts, bonds and all other Call for Bid documentation required by each Department, the Chief Administrative Officer and Council for the purposes of fulfilling the procurement needs of the Corporation;
 - b) the Call for Bids, opening, and ensuring compliance to the terms and conditions of the Call for Bids;
 - c) ensuring compliance with this by-law and advising Council through the appropriate Department head when there has been non-compliance;
 - d) the development of co-operative purchasing plans with other levels of government, municipalities, boards, agencies, commissions, or private sector consortia where same is found to be in the financial best interest of the Corporation;
 - e) the standardization of all Goods and Services where possible;
 - f) the disposal of Goods and Salvage which has been declared surplus by a Department Head; and
 - g) complying with the Purposes, Goals, and Objectives of this by-law;
- 4.3 The Chief Administrative Officer has the authority to instruct Department Heads not to award Contracts, and to submit recommendations to Council for approval, and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interest of the Corporation.
- 4.4 The Chief Administrative Officer may award the contract provided that:
- a) The award is made to the lowest responsive and responsible compliant Bidder;
 - b) There is no irregularity or informality that has not been resolved by the Bid Review Committee;
 - c) There is no current litigation between the Bidder and the Corporation;
 - d) During the time that regular Council meetings are suspended during the summer hiatus, the Chief Administrative Officer shall be authorized to award contracts in excess of \$100,000, provided that a report is submitted to Council by the C.A.O. as soon as reasonably possible setting out the details of any contract awarded pursuant to this authority.

5. RESTRICTIONS AND EXCEPTIONS

- 5.1 The purchasing procedures set out in this by-law shall not apply to the purchase of those goods and services set out in Schedule "A" attached, provided that the total cost of the purchase does not exceed the amount approved in the annual budget.
- 5.2 No Contract for Goods, Services or Construction may be divided into two or more parts to avoid the application of the provisions of this by-law.
- 5.3 No Contract for Services shall be Awarded or recommended for Award by the Department Head where the Services could result in the establishment of an employee – employer relationship.

- 5.4 No personal purchases shall be made by the Corporation for Mayor/Members of Council or any appointed member of a local board or commission or for Corporation employees or their families, with the exception of those made through the Corporate Sponsored Employee Programs.
- 5.5 An employee shall not personally obtain any goods that have been declared surplus unless through a public process or otherwise authorized by the Treasurer.
- 5.6 No employee or Council member shall purchase, on behalf of the Corporation, any Goods, Services or Construction, except in accordance with this by-law.
- 5.7 No elected official, officer or employee or member of an employee's family of the Corporation shall accept, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate or gift or money, except:
 - a) gifts of a very small intrinsic value;
 - b) gifts given for the use or benefit of the Corporation; or
 - c) moderate hospitality during the normal course of business that would not significantly exceed what the Corporation, through the employee's expense account, would likely provide in return and would not be perceived by others as influencing the making of a business decision;
- 5.8 All elected officials, officers and employees of the Corporation shall declare any Interest to the Chief Administrative Officer and such persons shall refrain from participating in the procurement process to which the Interest relates.
- 5.9 All procurement undertaken by the Corporation shall be undertaken in accordance with the Corporation's code of conduct, Policies and Procedures manual and in accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50.
- 5.10 Where an applicable national eg: Agreement on Internal Trade (AIT) or international trade agreement is in conflict with this by-law, the trade agreement shall take precedence.
- 5.11 The Corporation may only enter into a Financing Lease if:
 - a) a by-law authorizing the Financing Lease is passed; and
 - b) in accordance with Corporate Financing Policies;

6. PRESCRIBED COUNCIL APPROVAL

Despite any other provision of this by-law, the following Contracts are subject to Council approval:

- a) any Contract requiring approval from the Ontario Municipal Board;
- b) any Contract prescribed by statute to be made by Council;
- c) where the purchasing by-law is being waived;
- d) where the cost amount proposed for acceptance is higher than the Council approved estimates and the necessary adjustments cannot be made;

- e) where a Substantive Objection (Bid Protest) emanating from the Call for Bid has been filed with the Department Head or with the Purchasing Division;
- f) where an irregularity precludes the Award of a Bid to the Supplier/Contractor submitting the Lowest Compliant Bid;
- g) where authority to approve has not been expressly delegated; and
- h) any Contract having a value in excess of one hundred thousand dollars(\$100,000.00);

7. PROCUREMENT PROCESS AND METHODS

The following are hereby authorized as the acceptable methods for all procurement undertaken by or on behalf of the Corporation. They may be utilized individually or in combination with one another, as may be appropriate in the circumstances.

7.1 PROCUREMENT PROCESS

Where applicable each of the Procurement Methods set out below shall be undertaken in compliance with the following process:

- a) the scope of the Goods, Services and Construction shall be clearly and extensively defined by the Call for Bid documentation;
- b) the form of Call for Bid documentation shall be, to the extent possible, standardized using common forms and processes;
- c) the Call for Bid documentation shall be circulated and advertised in as wide and extensive manner as will ensure the best, most comprehensive and most competitive response to the Call for Bid;
- d) where the Call for Bid exceeds the value indicated in the Agreement of Internal Trade (AIT), the documentation will be advertised nationally in accordance with Agreement of Internal Trade (AIT);
- e) The Bid shall be fairly and completely evaluated using an open, fair and transparent process as may be possible with the circumstances of the particular Call for Bid. Evaluation criteria shall be established for each class of procurement undertaken by the Corporation;
- f) the evaluation of each Bid shall be carefully recorded using a standardized form of evaluation record, such as a tally card or any other point tabulation method. The evaluation record shall be filed and shall not be destroyed until three years or in accordance with the record retention by-law, following the completion of the procurement Contract;
- g) all successful Bidders shall, where required by this by-law, be required to comply with the Contract negotiation, preparation and execution requirements of section Guarantees of Contract Execution and Performance and form Contract of this by-law;
- h) all Contracts shall be monitored and documented by the Department Head to ensure that performance is in accordance with the requirements of the Contract and steps shall be taken to correct the performance of

Suppliers/Contractors where it falls below the standard required by the Contract;

- i) all Bids received by the Corporation shall be kept together in a secure place until the time for opening. All Call for Bids shall remain sealed until the opening, which shall occur in public. Call for Bids requiring the submission of proprietary information or information containing intellectual property protected by law shall contain provisions providing for protecting the confidentiality of same, in accordance with the provisions of the Municipal Freedom of Information and Personal Information Protection and Electronic Document Act, as amended;
- j) all Call for Bid documentation shall clearly set out the requirements for the price element of the submission, specifying whether the Bid price is submitted on a unit price or total price basis and whether it is net of any taxes, or may include provision for early payment discounts, premiums, financing charges, administrative costs, cost of living or other escalations, contingencies or other deductions or additions and how any Contract extras shall be dealt with;
- k) all Call for Bid documentation shall clearly specify how each of the following criteria shall be utilized in evaluating all Bids:
 - i. price;
 - ii. quality of Goods, Services and Construction;
 - iii. experience and qualifications of Bidder(s);
 - iv. risk;
 - v. strategy;
 - vi. approach;
 - vii. methodology;
 - viii. scheduling of work;
 - ix. past performance;
 - x. facilities and equipment to be utilized in Contract performance;
 - xi. sub-contractors and/or personnel to be used in Contract performance;
- l) any other criteria that is mandated by Council;
- m) more detailed procedural information is contained in the Tendering Procedures document adopted 01.14.2002 CWC. Where there is a conflict between the Procurement By-law and the Tendering Procedures the Procurement By-law applies.

7.2 STANDARD PROCUREMENT METHODS

7.2.1 REQUEST FOR EXPRESSIONS OF INTEREST (RFI)

A Request for Expression of Interest (RFI) may be conducted for the purposes of determining the availability of Supply of any Goods, Service or Construction. The submission of an Expression of Interest (RFI) does not create any contractual

obligation between the Corporation and the interested Supplier/Contractor. The submission of an Expression of Interest may be made a specific pre-condition of any other procurement Procedure utilized by the Corporation.

7.2.2 REQUEST FOR PRE-QUALIFICATION (RFPQ)

A Request for Pre-qualification (RFPQ) may be conducted for any Good, Services or Construction to select the number of qualified Bidders that may Bid on the subsequent competitive sealed Bid process under the following circumstances:

- i. the work is considered "high risk" with respect to Regulations governed under the Occupational Health and Safety Act;
- ii. the work is such that Contract administration costs (work inspection, follow-up, extra fee negotiations) could result in a substantial cost to the Corporation if the work is not satisfactorily performed the first time;
- iii. the Goods or equipment to be purchased shall meet national safety standards or has demonstrated an acceptable level of performance;
or
- iv. the work involves complex, multi-disciplinary activities;

When the Request for Pre-qualification (RFPQ) is utilized, a Pre-qualification Bid document shall be provided to the potential Bidders setting out the criteria for pre-qualification, which may include:

- 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;
- v. financial capability;

The selection of qualified Bidders following a pre-qualification process does not create any contractual obligation between the Corporation and the pre-qualified Bidder. Pre-qualification may be made a specific pre-condition of any other procurement Procedure utilized by the Corporation.

7.2.3 LOW VALUE PURCHASE (LVP)(LESS THAN \$1,000.00)

A Low Value Purchase (LVP) may be utilized for purchases involving Contracts which do not exceed one thousand dollars (\$1,000.00) (which shall be deemed to be the "goal" of the Low Value Purchase (LVP) form of procurement). These purchases may be made utilizing a Purchase Order, petty cash, a cheque, or a Corporation credit card. The Department Head shall appoint individuals within their Department who have authority to make Low Value Purchases (LVP). These purchases are within the discretion of the Department Head or designate. Only purchases, which can be demonstrated to have been made at Fair Market Value, shall be made.

7.2.4 REQUEST FOR QUOTATION (RFQ) (PURCHASES BETWEEN \$1,001.00 TO \$100,000.00)

A Request for Quotation (RFQ) may be conducted for the procurement of Goods, Services and Construction having a Contract value of one thousand dollars (\$1,000.00) or more, but not exceeding one hundred thousand dollars (\$100,000.00), a Request for Quotation (RFQ) shall be utilized depending on the scope of the project. A minimum of three (3) Quotations shall be requested. **Requests for Quotation (RFQ) may be formal or informal depending on the complexity and scope of the requirements.** Quotations will be accepted in one or more of the following formats:

Electronically (fax, email, or internet);

Telephone;

Formal sealed Bid;

Refer to Schedule "C" attached for Methods of Procurement Summary Template.

7.2.5 REQUEST FOR TENDER (RFT) (PURCHASES EXCEEDING \$100,001.00)

A Request for Tender (RFT) may be conducted for the procurement of Goods, Services and Construction having a Contract value of one hundred thousand dollars (\$100,000.00) or more, a Request for Tender (RFT) shall be used where all of the following criteria apply:

- i. two or more sources are considered capable of supplying the Goods, Service or Construction;
- ii. the Goods, Service or Construction is adequately defined to permit the evaluation of Bids against clearly stated criteria and/or specifications;
- iii. the market conditions are such that Bid can be submitted on a competitive pricing basis; and
- iv. it is intended that the lowest priced Compliant Bids shall be accepted without negotiations;

The Department Head shall provide to the Purchasing Division a written pre authorized document containing the relevant information such as specifications, provisions, plans, supplemental general conditions, etc;

Notice of the Call for Bid shall be given by public advertising and, if appropriate, Electronic Bidding may be utilized. In the case of a Pre qualified Call for Bid, only Pre qualified Bidders shall be notified;

The Bid envelope shall be publicly opened and read out at the specified time and date. All Bid amounts shall be recorded on a summary of Bidders sheet;

Any irregularities in the Call for Bid shall be dealt with in accordance with Schedule "B" attached, and section Bid Irregularities of this by-law;

The Bid documents shall require the successful Bidder to sign those documents and take those steps set out in section Guarantees of Contract Execution and Performance of this by-law;

The Bid Award shall be made to the Lowest Compliant Bidder;

The Award of any Bid having a Contract value in excess of one hundred thousand dollars (\$100,000.00) requires Council approval, or (and doesn't have any unresolved irregularities), may be awarded by the Chief Administrative Officer);

7.2.6 REQUEST FOR PROPOSAL

A Request for Proposal (RFP) may be conducted for the procurement of Goods, Services and Construction after applying the following criteria, it is determined that the Request for Proposal (RFP) is a more appropriate form of procurement.

- i. the procurement is required as a result of a peculiar problem, requirement or objective;

- ii. the selection of the Proponent depends more upon the effectiveness of the proposed solution, than the price alone;
- iii. it is expected that negotiation with one or more Proponents may be required with respect to any aspect of the Contract;
- iv. the precise Goods, Service or Construction, or the specifications therefore are not known or are not definable and it is expected that Proponent will further define them;

The Department Head shall provide to the Purchasing Division a written pre authorized document containing the relevant information such as a work statement or performance specification, time frames in which the work is to be completed, specific criteria and assigned weights to be used in evaluating the proposal (These criteria can cover the proposed approach to accomplish the work, management capability, and price), specifications, provisions, plans, supplemental general conditions, etc;

Notice of the Call for Proposal shall be given by public advertising and, if appropriate, On-Line Bidding may be utilized. In the case of a Pre qualified Call for Proposal, only Pre qualified Proponents shall be notified;

The Proposal envelope shall be publicly opened and only the name of the Proponent shall be read out at the specified time and date;

The Award of any Request for Proposal (RFP) having a Contract value in excess of one hundred thousand dollars (\$100,000.00) requires Council approval;

Any irregularities in the Request for Proposal (RFP) shall be dealt with in accordance with Schedule "B" attached and section Bid Irregularities of this by-law;

Where an Award may be made following an evaluation of the Proposals, without further negotiation, the successful Proponent shall be required to comply with the Contract requirements of section Guarantees of Contract Execution and Performance of this by-law;

7.3 ALTERNATIVE PROCUREMENT METHODS

7.3.1 UNSOLICITED PROPOSALS

Unsolicited proposals received by the Corporation shall be reviewed by the Department head and the Purchasing Manager. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with the provisions of this by law;

Where a Contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis, the Sole Source purchasing or Single Source provisions on this by-law shall apply;

7.3.2 TWO PHASE BID

A "Two Phase Bid" is a bidding procedure consisting of two stages:

Step 1 consists of a request for technical requirements and the selection of Bidders whose requirements are considered most acceptable;

Step 2 consists of only those Bidders whose technical requirements have been rated most acceptable, submitting costs.

Bidding then proceeds as in conventional formal sealed Bids.

7.3.3 REQUEST FOR PRICE AGREEMENT (SYSTEM CONTRACT)

A Request for Price Agreement is a contractual agreement in which the Corporation contracts with a Supplier/Contractor to provide the user Department requirements at a predetermined price. Usually it involves a minimum number of units, orders placed directly with the Supplier/Contractor by the user Department, and limited duration of the contract. ie blanket order contracts or term contracting;

shall be handled in the same manner as a Call for Bid;

No Contractual obligation shall arise between a Supplier/Contractor and the Corporation which have signed a Price Agreement until the Goods, Services or Construction are actually purchased;

7.3.4 NEGOTIATION

Negotiation may be used for the procurement of Goods, Services or Construction for Contracts of any Contract value when any of the following criteria apply:

- i. after the RFP process has closed, it may be necessary for discussion to clarify and/or make significant revisions(s) to the initially defined requirements of the Call for Bid;
- ii. due to abnormal market conditions, the Goods, Services or Construction required are in short supply;
- ii. where competition is precluded due to the existence of any patent right, copyright, technical secret or control of raw material;
- iii. where there is only one source of the Goods, Services or Construction which would be acceptable and cost effective;
- iv. where all Bids received exceed the amount budgeted for the procurement negotiations may be resumed with the lowest compliant Bidder.
- v. where the extension or reinstatement of an existing Contract with Council approval would be more cost effective or beneficial to the Corporation;
- vi. where Extraordinary Circumstances exist;
- vii. where for security or confidentiality reasons it is in the public interest;
- or
- viii. where authorized by Council to do so;

The Award for any negotiated Contract having a Contract Value in excess of one hundred thousand dollars (\$100,000.00) requires Council approval.

The Award of any negotiated Contract shall comply with section Guarantees of Contract Execution and Performance of this by-law.

7.3.5 EXTRAORDINARY CIRCUMSTANCE (EMERGENCIES) PURCHASES

Notwithstanding the provisions of this by-law, the following shall only apply in case of an emergency, when an event occurs that is determined by a Department Head_or the Chief Administrative Officer to be:

- i. a threat to public health;

- ii. the maintenance of essential Town services;
- iii. the welfare of persons or of public property or;
- iv. the security of the Town's interests and the occurrence requires the immediate delivery of goods or services and time does not permit for competitive bids;

The above criteria are to be applied on the basis of:

Procurement under \$100,000.00:

- i. Wherever feasible, the Purchasing Manager, upon the recommendation of the Department Head, shall secure by the most open market procedure at the lowest obtainable price, any goods and services required;
- ii. A purchase order shall be issued;
- iii. An information report will be submitted to Council explaining the actions taken and the reason(s) therefore;

Procurement Over \$100,000.00:

- i. The Department Head shall obtain the prior approval of the Director of Finance/Treasurer and the Chief Administrative Officer;
- ii. An information report shall be submitted to Council explaining the actions taken and the reason(s) therefore;
- iii. A purchase order shall be issued;

7.3.6 CONTINGENCIES

Where any purchase of Goods and Services has been authorized under this by-law, the Director of Finance/Treasurer may authorize disbursement of additional funds, provided that such additional funds shall not exceed the lesser of ten percent (10%) of the original contract price; or \$50,000.00, and provided that the additional funds are required to complete work set out in the original contract and further, that there are budget funds available. Further, that any reallocation of budget accordingly necessitated, would subsequently be reported to Council.

7.3.7 SOLE SOURCE PURCHASE

A Sole Source Purchase may be conducted for the procurement of Goods, Services or Construction for Contracts of any Contract value without the competitive Bid process, in the following circumstances:

- i. where the compatibility of a purchase with existing equipment, facilities or Service is a paramount consideration and the purchase will be made from a sole source;
- ii. where a Good is purchased for testing or trial use;
- iii. where the Corporation purchases supplies for resale;
- iv. where the Corporation has a rental contract with a purchase option and such purchase option could be beneficial to the Corporation;
- v. notwithstanding anything in this by-law, where a purchase is determined by Council to be fair and reasonable and meets the department's requirements and is made from a non-profit corporation

- supported by the Corporation, the Corporation may make such a purchase as a Sole Source Purchase;
- vi. where Goods are offered for sale to the Corporation by Bid, auction or negotiation such purchase will be deemed to be a Sole Source Purchase and the Chief Administrative Officer may authorize the submission of a Bid or the conduct of negotiations where the Chief Administrative Officer determines the purchase to be clearly in the best interest of the Corporation;
- vii. for matters involving security, police matters, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the contractor or the Corporation. Such purchases may be made as a Sole Source Purchase;

The Award of any Sole Source Purchase Contract having a Contract Value in excess of one hundred thousand dollars \$100,000.00 requires Council approval. Sole Source Purchase less than \$100,000.00 will require approval from the Chief Administrative Officer.

The Award of any Sole Source Purchase Contract shall comply with section Guarantees of Contract Execution and Performance of this by-law.

7.3.8 SINGLE SOURCE BID

A Single Source Bid is a contract for the purchase of Goods and Services entered into after soliciting and negotiating only with one source, usually because of the technology required or uniqueness of the service provided.

7.3.9 IN-HOUSE BIDS

In House Bids may be used for the procurement of Goods, Services and Construction were applicable and approved by Council;

In House Bids shall only be utilized where external Suppliers/Contractors have also been requested to submit Bids;

7.3.10 CO-OPERATIVE BID

The Corporation may participate with other government agencies or public authorities in Co-operative Purchasing where it is in the best interests of the Corporation to do so.

The Policies and Procedures of the government agencies or public authorities calling the Co-operative Bid are to be the accepted Policy and Procedure for that particular Bid.

The terms of reference and constitution of York Public Buyer's Co-operative and any other originating Co-operative shall form the basis of accepted Policy and Procedure when participating in, or calling Co-operative Bids.

8. GUARANTEES OF CONTRACT EXECUTION AND PERFORMANCE

Bidders may be required to submit security for entry into, and performance of, a contract, i.e: Bid Security, Bid Surety, Insurance and Certificate of Clearance from the Workplace Safety and Insurance Board (WSIB).

9. BID IRREGULARITIES

The process for administering irregularities contained in Bids pertaining to all Contracts shall be as set out in Schedule "B" attached, Bid Irregularities.

10. SUPPLIER/CONTRACTOR PERFORMANCE

The Department Head shall be responsible for monitoring the performance of procurement Contracts and documenting evidence related to same and advise the Purchasing Division in writing where the performance of a Supplier/Contractor has been unsatisfactory in terms of failure to meet Contract specifications, terms and conditions or for Health and Safety, environmental or other violations.

The Treasurer may, in consultation with the Corporation's Solicitor, prohibit an unsatisfactory Supplier/Contractor being awarded a contract for up to three (3) years.

11. REPORTING TO COUNCIL

Where the value of the Goods, Services and Construction is less than the prescribed limits and the procedures defined in this by-law have been followed, a report to Council is not required.

Where the value of Goods, Services exceed the prescribed limits or the Purchasing by-law is being waived, or acquisition exceeds the approved budget or as otherwise requested to do so by the Chief Administrative Officer, a report shall be submitted by the Department Head in consultation with the Purchasing Manager to Council for approval.

12. BID REVIEW COMMITTEE

12.1 The Purchasing Manager shall establish a Bid Review Committee composed of, at a minimum, the following members of the Corporation staff:

The Treasurer;

The Purchasing Manager;

A representative from the Department requiring the goods and services; and

A solicitor from the Legal Department [if in existence]

12.2 In the event that a Bid contains an informality or irregularity, or if there is a challenge to the Bid process, the Bid shall be referred to the Bid Review Committee to determine whether the Bid complies with the submission requirements set out in the Bid or to determine the validity of the challenge.

12.3 In the event that Bid Review Committee does not agree unanimously that the Bid shall be accepted or rejected, a report from the Purchasing Manager shall be prepared for submission to Council setting out the nature of the informality, irregularity or challenge and the proposed action to be taken.

12.4 In the event that two equal lowest bids are received the Bid Review Committee will handle the challenge of breaking the tie customary to the industry trade.

13. ACCESS TO INFORMATION

13.1 The disclosure of information received relevant to the issue of Call for Bids or the Award of Contracts emanating from Call for Bids shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, and the Personal Information Protection and Electronic Document Act, as amended.

14. SURPLUS STOCK

14.1 Department Heads shall submit to the Purchasing Division reports of furniture, vehicles, equipment, stocks of all supplies, and other Goods and material, which are no longer used or which have become obsolete, worn out, or incapable of being used.

14.2 The Purchasing Division shall have the authority to transfer furniture, vehicles, equipment, surplus stock, and other Goods and material from one Department to other Department, and then have the authority to sell or dispose of all furniture, vehicles, equipment, surplus stock, supplies, or other Goods and material which have become unsuitable for use by the Corporation or to exchange or trade the same for new furniture, vehicle, equipment, surplus stock, supplies, or other Goods and material

14.3 Sale of surplus furniture, vehicles, equipment, stock, supplies and other Goods and material shall be made to the highest responsive and responsible compliant Bidder and the sale shall be made in accordance with the provisions of this by-law where applicable, and the terms of sale should be documented.

15. BY-LAW REVIEW

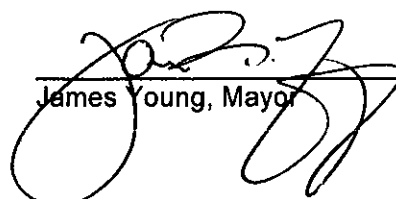
The procurement by-law shall be reviewed and evaluated for effectiveness every five (5) years or sooner if required.

16. SHORT TITLE

The short title of this by-law shall be the "Procurement By-law".

READ A FIRST, SECOND and THIRD TIME and FINALLY PASSED this 17th day of December, 2004.


Luqille King, Municipal Clerk


James Young, Mayor

SCHEDULE "A"

The acquisition methods described in this by-law do not apply to the following items:

1. Training and Education
 1. Conferences, conventions, courses and seminars
 2. Magazines, books, periodicals
 3. Memberships
2. Refundable Employees Expenses
 1. Advances
 2. Meal Allowances
 3. Travel and Entertainment
 4. Miscellaneous – Non-Travel
3. Employer's General Expenses
 1. Payroll Deductions Remittances
 2. Medical
 3. Licenses (Vehicle, Firearms, etc.)
 4. Debenture Payments
 5. Insurance Premiums
 6. Grants to Agencies
 7. Damage Claims
 8. Petty Cash Replacement
 9. Payments to Real Property
 10. Tax Remittances
 11. Regional charges to and from other government bodies
 12. Sinking Fund Payments
 13. Payments for employment
4. Professional and Special Services
 1. Committee Fees
 2. Medical, Laboratory, and Pharmacy Services
 3. Legal fees for expert or professional legal services for all Regional and Insurance Matters
 4. Payments to Social Service and Health Agencies that are subject to purchase of Service Agreements
 5. Medical and Dental fees
 6. Funeral and Burial expenses
 7. Appraisal Fees
 8. Witness fees
 9. Honorariums
5. Postage
6. Utilities (monthly charges, utility relocations, construction or where propriety)
 1. Water and Sewer
 2. Hydro
 3. Gas
 4. Telecommunications services
7. Employee Purchase Plans
8. Repairs/Upkeep under \$5,000 to vehicles and equipment.

SCHEDULE "B"

BID IRREGULARITY

A Bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a Call for Bid and the information provided in a Bid response.

For the purposes of this by-law, bid irregularities are further classified as "major irregularities" or "minor irregularities".

A "**major irregularity**" is a deviation from the Call for Bid that affects the price, quality, quantity or delivery, **and is a mandatory requirement of the Bid contract**. If the deviation is permitted, the Bidder could gain an unfair advantage over competitors. The Purchasing Manager shall reject any Bid, which contains a major irregularity.

A "**minor irregularity**" is a deviation from the Call for Bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery **is not a mandatory requirement of the Bid contract**. If the deviation is permitted or corrected, the Bidder would not gain an unfair advantage over competitors. The Purchasing Manager may permit the Bidder to correct a minor irregularity.

MATHEMATICAL ERRORS - RECTIFIED BY STAFF

The Purchasing Manager will correct errors in mathematical extensions and/or taxes, and the unit prices will govern. The responsibility for correcting mathematical errors may be delegated to the requisitioning Department.

ACTION TAKEN

The Bid Review Committee will be responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- ✓ major irregularity (automatic rejection)
- ✓ minor irregularity (bidder may rectify)
- ✓ mathematical error (additions or extensions) as above

In the event that the Supplier/Contractor withdraws his Bid due to the identification of a major irregularity, the Corporation may disqualify such Supplier/Contractor from participating in the Corporation Call for Bid for a period of up to one (1) year.

BID IRREGULARITIES – SUMMARY

ITEM	DESCRIPTION	MAJOR	MINOR	ACTION
1.	Bids received after the stated closing date and time stamped (by one second or more)	X		automatic rejection, if requested in the Bid
2.	Bids not submitted in the Original Bid Form Format as supplied	X		automatic rejection, if requested in the Bid
3.	Bids not completed in ink or in a typed format (no photocopies).	X		automatic rejection, if requested in the Bid
4.	Bid form(s) not signed	X		automatic rejection, if requested in the Bid
5.	Bids not completed	X		automatic rejection, if requested in the Bid
6.	Addendum(s) (if issued) not acknowledged	X		automatic rejection, if requested in the Bid
7.	Strikeouts, erasures or overwrites shall be initialled by an authorized person.	X		automatic rejection, if requested in the Bid
8.	Unauthorized alterations, additions, deletions, or qualifying statements made to or provided with the Bid form	X		automatic rejection, if requested in the Bid
9.	Bid and/or Contract Security, Surety Consent Form or Letter of Credit or Certified Cheque issued by or to be drawn against an Ontario Surety Company and/or Canadian chartered bank shall be submitted with the Bid Form.	X		automatic rejection, if requested in the Bid
10.	Signed Bid Bonds: a. Corporate seal or equivalent proof of authority to bind company or signature of Bidder or both missing. b. Corporate seal or equivalent proof of authority to bind company or signature of Bonding company missing.	X		automatic rejection, if requested in the Bid
11.	Other Bid Security: Cheque which has not been certified	X		automatic rejection, if requested in the Bid
12.	Bidders that have not been pre qualified	X		automatic rejection, if requested in the Bid
13.	Bidders not attending a mandatory site meeting	X		automatic rejection, if requested in the Bid
14.	Proper response envelope or label not used		X	acceptable if officially received on time
15.	Unsealed Bid Envelopes	X		automatic rejection, if requested in the Bid
16.	Pricing or signature pages missing	X		automatic rejection
17.	Insufficient financial amount (ie: insufficient deposit)	X or	X	Bid Review Committee
		MAJOR	MINOR	
18.	Bid received on documents other than those provided in request	X or	X	Bid Review Committee
19.	Sign Bid Document proof of authority to bind is missing	X		automatic rejection

20.	Part bids (all items not bid)	X or	X	Bid Review Committee
21.	Bids containing minor clerical errors		X	Bidder has 2 working days to correct initial errors. Corporation reserves the right to waive initialling and accept bid
22.	Uninitiated changes to the request documents which are minor (ie; the Bidder's address is amended by overwriting but not initialled)		X	Bidder has 2 working days to correct initial errors. Corporation reserves the right to waive initialling and accept bid
23.	Alternate items bid in whole or in part	X		unless specified in the Call for Bid
24.	Other mathematical errors which are not consistent with the unit prices		X	Bidder has 2 working days to initial corrections. Unit prices will govern.
25.	Pages requiring completion of information by vendor are missing	X		automatic rejection
26.	Bid documents which suggest that the Bidder has made a major mistake in calculations in Bid	X	X	Bid Review Committee

NOTE: The above list of irregularities should not be considered all-inclusive. The Purchasing Manager, in consultation with the requisitioning Department will review minor irregularities not listed. **The Purchasing Manager may then accept the Bid, or request that the Bidder rectify the deviation, or that it go to the Bid Review Committee.**

SCHEDULE "C"**STANDARD PROCUREMENT METHODS – SUMMARY TEMPLATE**

The following are authorized procedures for the procurement of goods, services, and construction, not available from pre-existing agreements.

DOLLAR THRESHOLDS	METHOD OF PROCUREMENT	SOURCE OF BIDS/ADVERTISEMENTS	TYPE OF CONTRACT	REPORTING STATUS
1. GOODS AND SERVICES				
under \$1,000.00		Purchases made from the competitive marketplace where possible and practicable	direct acquisition, credit card	no report to Council required
\$1,001.00 - \$20,000.00	RFQ informal	3 written quotes to be obtained where possible, or fax bid - Advertised on website/ETN	Purchase Order required	no report to Council required
\$20,001.00 – \$100,000.00	RFQ formal	Advertised on website/ETN	Purchase Order and Executed Contract	no report to Council required
over \$100,001.00	RFT	Advertised on website/ETN, may advertise in local and/or trade paper	Purchase Order and Executed Contract	report to Council in Consultation with the Purchasing Division
2. REQUESTS FOR PROPOSALS (INCLUDING THE ENGAGEMENT OF PROFESSIONAL AND CONSULTING SERVICES)				
under \$20,000	Written proposal approved by Department Head		Purchase Order	no report to Council required
\$20,001 to \$100,000	RFP	Advertised on website/ETN, may advertise in local and/or trade paper	Purchase Order and Executed Contract	no report to Council required
over \$100,001.00	RFP	Advertised on website/ETN, may advertise in local and/or trade paper	Purchase Order and Executed Contract	report to Council
3. EXPRESSION OF INTEREST and/or REQUEST FOR PRE-QUALIFICATION				
N/A	Request for information only, may follow by INVITATION TO BID or PREQUALIFIED TENDER.	Advertised on website/ETN, may advertise in local and/or trade paper	no contract. Followed by further request	no report to Council required

CODE OF CONDUCT FOR STAFF

The safeguarding of the reputation of the Town of East Gwillimbury for the highest standards of integrity and honesty in all its dealings depends on the commitment of every employee to the following Code of Conduct which sets out the minimum standard of behaviour required of all employees.

Employees of the Town of East Gwillimbury are expected to adhere to the highest standards of personal and professional competence, integrity and impartiality. Where members of staff are requested to perform functions, which are outside their area of specific competence, they are obliged to indicate the extent of their limitations.

The Code represents general standards. Individual Department Heads may in their discretion augment these standards with specific policies which are more stringent, to apply to individual employees, group of employees or all Department employees. When this is done, it shall be in writing with a copy to the C.A.O. and the Director of Corporate Services. The Code applies with appropriate changes and modifications to all Staff, Department Heads and to the Chief Administrative Officer.

Conflicts of Interest

A conflict of interest arises when an employee's personal interest conflicts with his or her duties and responsibilities as an employee of the Town. A conflict of interest can exist whether or not pecuniary advantage has been or may have been conferred on an employee.

Employees shall not:

- Engage in any business transactions or have financial or other personal interests which are inconsistent with the impartial discharge of their civic duties;
- Place themselves in a position where they are under obligation to any person who might benefit from special consideration or favour on their part;
- Promote, make a decision about, or deal in any way with an application to the Town of East Gwillimbury for a loan, grant, award, or other benefit involving themselves or a relative;
- Extend, in the discharge of their official duties, preferential treatment to any person;
- Gain personal benefit, directly or indirectly, from any agreement or contract with the Town about which they can influence decisions or affect the outcome;
- Gain personal benefit, or permit others to benefit, from the access to information acquired in their official capacity that is not generally available to the public through ordinary and property channels.

Employees shall not engage in work, business or other types of financial enterprises outside the Corporation that:

- Items under negotiation;
- Information supplied in support of licence applications, etc., where such information is not part of the public documentation; and
- Schedule of prices in contract tenders other than the information announced at the opening of the tenders.

The above is not intended to be an exclusive list of examples. Information must not be released contrary to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

Employees shall not disclose or release, by any means to any member of the public, either in verbal or written form, any confidential information or material acquired by virtue of their official position as an employee of the Town.

Employees shall not permit any person, other than those who are appropriately entitled thereto, to inspect or have access to information, papers or documents that are confidential.

Formal procedures are in place, in accordance with the *Freedom of Information and Protection of Privacy Act*, that govern situations where a member of the public requests access to information that is regarded as confidential by the Town.

Employees shall not, by virtue of their position with the Town, use information for personal or private gain or for the gain of friends, relatives or any person or corporation having dealings with the Town.

All personnel matters and files on any employee of the Town shall be kept in strictest confidence with Corporate Services and Payroll and knowledge of their contents shall be available only to those who are appropriately entitled thereto.

Employees are responsible for the proper storage, safeguarding and disposal of confidential information. This includes both hard copy and electronic documents.

Where an employee is unsure of the status of the information, he or she shall confer with the C.A.O. or the Director of Corporate Services/Municipal Clerk.

Restrictions Regarding Use of Town Information

All employees are required to refrain from the use or transmission of confidential or privileged information while working of the Town or after termination of employment with the Town. Staff is specifically forbidden to use information available only to Town staff to guide personal investment in real estate, whether directly or indirectly through others.

Employees shall not act in opposition to the Town on any matter that the employee or their Department was working on at the time of leaving the Town's employ if the employee will be

using any confidential or privileged information gained during the employee's service with the Town.

The rule against disclosing of confidential information does not apply to information requested under the *Municipal Freedom of Information and Protection of Privacy Act*. An employee who is subpoenaed to give evidence under oath in court or before a tribunal should consult with the C.A.O. prior to disclosing any confidential information.

Gifts and Benefits

The frequency and scale of the hospitality accepted should not be greater than the employee's Department Head would allow to be claimed on an expense account if it were charged to the Town.

Employees shall not seek or accept any gift, service, commission, reward, advantage, favour, benefit or privilege that could be viewed as being given in anticipation of or in recognition of special consideration or that may influence or be perceived to influence the employee in the course of their employment.

In compliance with the paragraph above, occasional gifts of nominal or promotional value may be accepted. Examples of gifts of nominal or promotional value that may occasionally be accepted are: baseball caps, t-shirts, mugs, calendars, seasonal gifts or foodstuffs, etc.

Gifts of more than nominal or promotional value shall be returned to the sender with an acknowledgement of the return and reference to this policy.

Gifts of real property, cash, the equivalent of cash such as negotiable securities, the use of vacation property, boats or vehicles, and airline tickets shall not be accepted.

If any employee has a question as to whether a gift may be accepted in compliance with this policy, the employee should consult with his/her Department Head.

Receipt of Gifts by a Department

A gift received by more than one individual shall be reported to the Department Head and if the gift conforms to accepted business practice the gift may be accepted. For example, a box of chocolates, or a bouquet of flowers may be accepted on behalf of the Department.

Gifts Given

Gifts may be given to others at the Town's expense only if the C.A.O. has approved the gift in advance, the gift is consistent with accepted business practices and is not given to nor could it be perceived to be given to influence a relationship.

Accepting Invitations

Cultural, social, charitable, political, recreational or sporting events:

- Generally, employees of the Town of East Gwillimbury should not attend cultural, social, charitable, political, recreational, or sporting events at someone else's expense. Exceptions to this policy may be made if, in the opinion of the Department Head and the C.A.O., it would be beneficial for corporate purposes.
- If, in the context of employment the employee receives an invitation to attend, in the company of the person extending the invitation, cultural, social, charitable, political, recreational, or sporting events at someone else's expense, the employee should consult with his/her Department Head who in turn will decide, in consultation with the C.A.O., whether or not attendance would be beneficial for the Corporation. For example, it may be appropriate to send representatives from the Town to a charitable event.
- If, in the context of employment the employee receives an invitation to attend, at someone else's expense, cultural, social, charitable, political, recreational, or sporting events where the person extending the invitation will not accompany the employee, or it is clear that business will not be carried out, the invitation should be refused with reference to this policy.

Business Travel and Accommodations

Employees shall not accept travel cost and/or accommodations, or payment related to travel or accommodations, from any person or business organization, unless the Department Head or the C.A.O. decides that the interest of the Corporation is best served through the acceptance of the travel and/or accommodation.

Meals

- Generally, employees of the Town of East Gwillimbury shall not accept meals from any person or business organization at someone else's expense. If the employee is at a "business meal", the employee should pay for his or her own meal. Exceptions to this policy may be made if, in the opinion of the Department Head and the C.A.O., it would be beneficial for corporate purposes. Town business should normally be carried out in a business environment, such as our offices.
- In certain circumstances, it may be appropriate for an employee, in the course of carrying out normal business activities, to accept a meal from time to time where the meeting overlaps with a mealtime, such as a working breakfast or lunch. If an employee has a question as to whether this provision would apply, the employee should consult with his/her Department Head, who in turn will decide in consultation with the C.A.O. as to whether the acceptance of the meal would be appropriate.

Hospitality

Hospitality may be offered at the expense of the Town if approved by the Department Head or the C.A.O., based on a determination that it would be beneficial for corporate purposes and/or would further the interest of the Town.

Drug and Alcohol Use

The Town of East Gwillimbury prohibits the use, sale, purchase, transfer or possession of opened alcoholic beverages by employees while on Town premises or during working hours, except as authorized by the C.A.O.

It is never permissible for an employee to attend their position's responsibilities or duties under the influence of alcohol or under the influence of any drug (legal or illegal).

Consumption of drugs authorized by a physician or consumption of non-prescription drugs must be carefully monitored by the employee to ensure that they can remain alert and productive and their judgment not be impaired at any time.

Solicitation of Town Employees

It is necessary to restrict soliciting and the distribution of material to Town employees.

Any broad solicitation of employees or distribution of non-work related materials of any kind to employees on Town premises or during working hours requires the approval of the C.A.O. or the Director of Corporate Services.

Employees may solicit or distribute material to their immediate co-workers without prior approval.

Political Activities

An employee of the Town who intends to be a candidate in a municipal election for the Town of East Gwillimbury should consult the *Municipal Act*, where the conditions of such candidacy regarding his or her employment are outlined.

Town employees may run for office on Town of East Gwillimbury Council only if they take an unpaid leave of absence starting no later than the day they register their nomination and ending on voting day and resign if elected to office.

During municipal elections, employees shall ensure that any involvement in a municipal election campaign shall not adversely affect their duties as employees with the Town of East Gwillimbury.

Department Heads and C.A.O. shall not participate in any municipal election campaign activities. Town resources shall not be used on any election campaign.

No campaign related activities shall take place on Town property unless authorized by the Director of Corporate Services or C.A.O.

Employee as Resident

Nothing in this Code shall prevent an employee who is a resident of the Town from making statements or taking actions as any other resident of the Town provided that in so doing the employee indicates that he/she is speaking or acting in his/her capacity as a resident or property owner in the municipality and not as an employee of the Town. No such statements or actions shall be based on information that the employee has gained through his/her employment with the Town unless such information is public and available to all residents and/or property owners.

Honesty

The Town of East Gwillimbury requires that employees be honest in their dealings with the Mayor, Councillors, officers and other Town employees, clients and to the public. It is every employee's responsibility to ensure that all information they communicate is as accurate as possible. No employee shall withhold information or willfully mislead the Mayor, Councillors, officers, employees, clients or the public about any issue of corporate concern.

Employees are responsible for maintaining an up-to-date knowledge of legislation within their area of responsibility. Ignorance of the law is not a valid defense if the law has been contravened.

Fraud and Breach of Trust

All employees of the Town of East Gwillimbury are responsible for immediately reporting suspected fraud, breach of trust or other wrong doings to their Supervisor, Department Head or C.A.O. Such disclosure cannot be frivolous, vexatious or slanderous and making the disclosure must serve the public interest.

In addition to contravening Town policy, acts of fraud and breach of trust may constitute a criminal offence under the *Criminal Code of Canada*. Examples of fraud and breach of trust include, but are not limited to the following:

- Illegally obtaining money, including acceptance of bribes;
- Getting early payment or advances;
- Using equipment for private purposes;
- Avoiding fees or taxes;
- Obtaining approvals under false pretenses;

- Avoiding contractual obligations; or
- The use of a public position for private gains, either directly or indirectly.

Using deceit to gain a benefit or advantage by action such as, but not limited to:

- Providing false or incomplete information;
- Falsifying records;
- Avoiding proper procedures; or
- Non-compliance with statutory requirements.

All suspected fraud or breach of trust will be investigated fully and the rights of all persons accused or suspected will be respected. All employees are required to co-operate fully with Town authorized investigators and police.

Employees should not discuss cases of suspected fraud or breach of trust outside of the investigation. If evidence is given which is based on opinions formed as a result of gossip rather than on fact, then an investigation could be misdirected and employees could be treated inappropriately.

Employees suspected of fraud and breach of trust should only be informed when this action is authorized by the investigator.

Retaliation against informants or witnesses involved in investigations or wrongdoings is forbidden. Retaliation will be grounds for disciplinary action up to and including termination of employment and may result in criminal charges.

Membership of Local Boards, Commissions and Committees

Employees of the Town of East Gwillimbury shall not serve on the municipality's local boards, committees and/or commissions in the capacity of an officer of the said local boards, committees and/or commissions.

Employees of the Town of East Gwillimbury where appointed to attend or attending local boards, committees and/or commissions in an advisory capacity, shall not vote on any matter before the body.

Property

Municipal property such as vehicles, equipment and materials shall not be used by employees for personal use, unless authorization has been obtained in writing, from the Department Head, and a copy sent to the Chief Administrative Officer.

Municipal property includes computer programs, technological innovations and other patentable items devised while in the employ of the Town of East Gwillimbury, and that remain the exclusive property of the Town of East Gwillimbury.

Employees are expected to use all municipal vehicles, equipment and material with due care and accountability.

Public Relations

Employees shall treat each contact with the public with diplomacy, tact and objectivity, and shall recognize that such contact affects the municipality's public image.

Employees shall refer to the C.A.O., and in the C.A.O.'s absence their Department Head, any contact from the media that does not deal with information in the public domain, but requests opinions or comments on policy, procedures or other matters.