



## By-Law No.2A-2023 – Schedule ‘A’

# Procurement of Goods and Services and Disposal of Assets Policy

**Approved:** March 2, 2023

**Revised:**

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**Last Reviewed Date:**

**Policy Lead:** Director, Regional Water

## 1 Purpose

This policy outlines the processes to be followed in order to obtain the best value when purchasing goods, contracting for services, or disposing of assets for the Elgin Area Water Supply System.

## 2 Applicability

Procurement activities for the Elgin Area Water Supply System shall be subject to all applicable Board policies and by-laws, any specific provisions of the *Municipal Act*, and all other applicable Federal and Provincial legislation.

Services provided by the Administering Municipality as required and as requested by the Board are excluded from this Policy.

## 3 Definitions

In this Policy, unless a contrary intention appears,

**Acting** – shall mean the formal delegation of authority by the person in the position of authority to the person acting in that role on a temporary basis.

**Addendum** (and/or ‘Addenda’) – shall mean the form of a document used to officially change, add and/or delete information contained within a Competitive Bid. By issuing an Addendum, the Competitive Bid itself changes to incorporate the Addendum.

**Administering Municipality** – shall mean the Corporation of the City of London as outlined in the Transfer Order and as amended from time to time by the Board.

**Agreement** – shall mean a formal written legal agreement or contract for the supply of goods, services, equipment or construction.

**Award** – shall mean a bid is formally accepted by Elgin and has obtained the required approval as defined in Section 4.7.5 and [Schedule “A”](#). An award may be executed by the issuance of a Purchase Order, Contract Record or formal Agreement.

**Best Value** – shall mean the optimal balance of performance and cost determined in accordance with a pre-defined evaluation plan. Best value may include a time horizon that reflects the overall life cycle of a given asset.

**Bid** – shall mean a response to a competitive bid issued by Elgin.

**Bidder** – shall mean a person, corporation or other entity that responds, or intends to respond to a competitive bid.

**Bid Deposit** – shall mean currencies, certified cheques, bid bond issued by a surety company licensed to operate by the Government of Canada or the Province of Ontario or another form of negotiable instrument acceptable to Elgin to compensate Elgin if the successful bidder does not enter into a contract.

**Blanket Purchase Contract** – shall mean any contract for the purchase of goods and/or services which will be required frequently or repetitively but where the exact quantity of goods and/or services required may not be precisely known or the time period during which the goods and/or services are to be delivered may not be precisely determined.

**Board of Management** (and/or 'Board') – shall mean the Board of Management for the Elgin Area Water Supply System as established under the *Municipal Water and Sewage Systems Transfer Act, 1997* and pursuant to Transfer Order Elgin Area #W1/1998 dated effective November 29, 2000.

**Board Member** – shall mean a member of the Board of Management as appointed in accordance with the Appointment of Board Members Bylaw.

**Certificate of Clearance** – shall mean certificate issued by an authorized official of the Workplace Safety and Insurance Board certifying that the Board waives its rights under Subsection 141(10) of the *Workplace Safety and Insurance Act, R.S.O. 1997*, as amended.

**CETA** – shall mean the Comprehensive Economic and Trade Agreement between Canada and the European Union.

**Chief Administrative Officer** – shall mean the person appointed as the Chief Administrative Officer in accordance with the Appointment of the Chief Administrative Officer Bylaw.

**Competitive Bid** – shall mean a REOI, RFI, RFQual, RFP, IRFQ, RFQ or RFT as further defined in this section.

**Consultant** – shall mean an external subject matter expert that provides advisory services and/or direction to Elgin when it requires competency and/or capacity for a particular procurement that is not available in-house.

**Contract** (and/or 'Contracting') – shall mean any formal or deliberate written agreement for the purchase of goods, services, equipment or construction including but not limited to Purchase Order and Agreement. Standard contracts are used for the acquisition of goods and/or services for a specific requirement. Corporate contracts are used for the acquisition of goods and/or services for a group of specific requirements.

**Conflict of Interest** – shall mean a situation in which the personal interests of the Director of Regional Water and/or Regional Water staff come into conflict, or appear to come into conflict, with the interests of Elgin.

**Contract Record** – shall mean a document which summarizes the goods and/or services to be purchased.

**Declaration Respecting Workers' Compensation Act, R.S.O.**

**1990/Corporations Tax Act** – shall mean a declaration that the bidder has paid all assessments or compensation payable and has otherwise complied with all requirements of the Workplace Safety and Insurance Board and that the bidder has paid all taxes and/or penalties imposed on it pursuant to the *Corporations Tax Act*, R.S.O. 1990, CHAPTER C.40, as amended.

**Delegate** - shall mean a person who has been delegated approval authority by a position with authority under this Policy (Section 4.7.7) and/or pursuant to the Delegation of Powers and Duties Policy.

**Delegation of Approval Authority** - shall mean the formal delegation of authority to perform a specific task or approval by a person in a position with authority under this Policy (Section 4.7.7) and/or pursuant to the Delegation of Powers and Duties Policy, resulting in a 'delegate'.

**Delegation of Approval Authority List** - shall mean a list prepared by the Director of Regional Water granting the formal delegation of authority to perform a task or approval (Section 4.7.7).

**Director of Regional Water** – shall mean the Director of Regional Water of the Regional Water division of the City of London seconded to Elgin for the purpose of administration, management, and oversight of Elgin.

**Dispute Committee** - shall mean a committee comprised of

**Emergency** – shall mean a situation or an impending situation that constitutes a danger that could result in serious harm to persons or substantial damage to property or the significant impairment of water quality and quantity and that is caused by the forces of nature, a disease or other health risk, an accident, or an act whether intentional or otherwise.

**Employee-Employer Relationship** – shall mean a worker agrees to work for Elgin, on a full-time or part-time basis, for a specified or indeterminate period of time, in

return for wages or a salary. Elgin has the right to decide where, when and how the work is to be done.

**Executed Agreement** – shall mean a formal agreement, either incorporated in the bid documents or prepared by Elgin or its agents, executed by the successful bidder and Elgin.

**Goods and/or Services** – shall mean supplies, services, materials and equipment of every kind required to be used to carry out the operations of Elgin.

**Elgin** – shall mean the Elgin Area Water Supply System as established under the *Municipal Water and Sewage Systems Transfer Act*, 1997 and pursuant to Transfer Order Elgin Area #W1/1998 dated effective November 29, 2000 and shall include the staff of the Regional Water division of the City of London seconded to Elgin for the purpose of administration, management, and oversight of Elgin.

**Informal Request for Quotation (and/or 'IRFQ')** – shall mean a request for prices on specific goods and/or services from selected suppliers which are submitted in writing, or as specified in the Informal Request for Quotation.

**Insurance Documents** – shall mean official original documents issued by an insurance company acceptable to Elgin and, preferably, licensed to operate by the Government of Canada or the Province of Ontario certifying that the bidder is insured in accordance with Elgin's insurance requirements and completed on Elgin standard insurance form(s); as contained in the competitive bid document or at the time of execution of an Agreement.

**Irregular Result** – shall mean as defined in Section 4.7.10.

**Irregularities Contained in Bids** – shall mean as defined in [Schedule "C"](#) and includes the appropriate response to those irregularities.

**Irrevocable Letter of Credit** – shall mean an irrevocable letter on the financial institution's standard form containing a request that the party to whom it is addressed pay the bearer or a person named therein money as a result of failure to perform or fulfill all the covenants, undertakings, terms, conditions and agreements contained in a contract.

**Labour and Material Bond** – shall mean a bond issued by a surety company on Elgin standard Form of Bond to ensure that the contractor will fulfill its obligations to its employees, subcontractors and suppliers and thereby protects Elgin.

**Letter of Agreement to Bond** – shall mean a letter or other form issued by a surety company licensed to operate by the Government of Canada or the Province of Ontario advising that, if the bidder is successful the bonding agency will issue the required bonds.

**MEA-CEO Client-Consultant Agreement** – shall mean the MEA/ACEC Ontario Client/Engineer Agreement for Professional Consulting Services template documents.

**Obsolete** – shall mean Elgin assets that are no longer current or have no functional use due to being replaced by newer assets and still may have some economic value.

**Pecuniary Interest** – shall mean the opportunity, directly or indirectly, to profit or share in any profit derived from a competitive bid or agreement.

**Performance Bond** – shall mean a bond issued by a surety company on Elgin standard Form of Bond executed in connection with a contract and which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and agreements contained in the contracts. These may also be in the form of ‘renewable performance bonds’.

**Procurement Official** – shall mean a person designated for the purpose of undertaking a Competitive Bid process for goods and services on behalf of Elgin in accordance with this Policy, including but not limited to a Regional Water employee, and/or an employee of the Purchasing and Supply Team of the Administering Municipality.

**Professional Consulting Services** – shall mean a consulting firm, engineer or architect providing professional knowledge or design or technical expertise.

**Proponent** – shall mean the respondent to a Request for Proposal (RFP).

**Purchase Order** – shall mean the standard procurement document issued by Elgin, or the Administering Municipality on behalf of Elgin, to formalize a purchasing transaction with a supplier.

**Purchase Requisition** – shall mean a duly authorized written or electronically produced request in an approved format to obtain goods or services.

**Purchasing Card** – shall mean a credit card provided by the Administering Municipality to a Regional Water employee and its use is bound by the provisions of this Policy and/or the Administering Municipality’s Procurement of Goods and Services Policy.

**Regional Water** – shall mean the Regional Water division of the City of London seconded to Elgin for the purpose of administration, management, and oversight of Elgin, including staff assigned to the Regional Water division.

**Request for Expression of Interest** (and/or ‘REOI’) – shall mean a focused market research tool used to determine supplier interest in a proposed procurement. It may be issued simultaneously with a Request for Qualifications (RFQUAL) when the

proposed procurement is well defined, and the purchaser has clear expectations for the procurement.

**Request for Information** (and/or 'RFI') – shall mean a general market research tool to determine which products and services are available, scope out business requirements, and/or estimate project costs which may be used prior to issuing another type of competitive bid.

**Request for Proposal** (and/or 'RFP') – shall mean a process where a need is identified, but the method by which it will be achieved is not prescribed at the outset. This process allows prospective suppliers and bidders to propose solutions or methods to arrive at the desired result.

**Request for Qualifications** (and/or 'RFQUAL') – shall mean a request for a list of qualified suppliers and firms who have an interest in providing services to Elgin, typically through a two-stage process.

**Request for Quotation** (and/or 'RFQ') – shall mean a request for prices on specific goods and/or services as specified in the Request for Quotation.

**Request for Tender** (and/or 'RFT') – shall mean a request for sealed bids which contain an offer in writing to execute some specified services, or to supply certain specific goods, at a certain price, in response to a publicly advertised request for bids.

**Scrap** – shall mean Elgin assets that no longer have the ability to function for their original design in their current state and have minimal economic value other than primarily for recycling value.

**Sealed Bid** – shall mean a formal sealed response received as a part of a competitive bid.

**Single Source** – shall mean that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications. Further qualifications appear in the definition in Section 14.12.4.

**Sole Source** – shall mean that the goods and/or services are available from only one supplier. Further qualifications appear in the definition in Section 14.12.3.

**Substantive Objection** – shall mean an unsuccessful bidder request moving to the third stage of dispute resolution as prescribed in Section 4.2.6.

**Supplier** – shall mean any individual or organization providing goods or services to Elgin including but not limited to contractors, consultants, suppliers, service organizations etc.

**Surplus** – shall mean Elgin assets that exceed the portion that is utilized by Elgin, may be current, may have functional use and still have some economic value.

**Tender** – shall mean a sealed bid which contains an offer in writing to execute some specified services, or to supply certain specified goods, at a certain price, in response to a publicly advertised request for bids.

**Transfer Order** – shall mean Transfer Order Elgin Area #W1/1998 dated effective November 29, 2000, issued by the Minister of the Environment pursuant to the *Municipal Water and Sewage Systems Transfer Act, 1997*.

**Triggering Event** – shall mean an occurrence resulting from an unforeseen action or consequence of an unforeseen event, which must be remedied on a time sensitive basis to avoid a material financial risk to Elgin or serious or prolonged risk to persons or property.

**Value Analysis** – shall mean a life cycle costing approach to valuing a given alternative, which calculates the long term expected impacts of implementing the particular option.

## **4 The Policy**

### **4.1 Procurement Goals and Objectives**

- 4.1.1 This Policy outlines the processes to be followed in order to obtain the best value when purchasing goods, contracting for services, or disposing of assets having monetary value for Elgin.
- 4.1.2 The guiding principle is that procurement decisions will be made using a competitive process that is open, transparent and fair, and the disposal of Elgin owned assets be undertaken with the full knowledge of the Board.
- 4.1.3 Elgin encourages innovation and the use of appropriate technology which meets Elgin specifications and industry standards in order to ensure the utilization of the most efficient and effective procurement processes and practices.
- 4.1.4 Elgin will consider the total costs including, but not limited to, the cost of acquisition, operation, training, maintenance, quality, warranty, payment terms, disposal value and disposal costs in evaluating competitive bids from responsive and responsible bidders. Where costs are submitted for more than one year, the net present value of the annual costs will be used to evaluate the costs at a discount value.
- 4.1.5 Elgin is committed to maximizing sustainability benefits by engaging with the public marketplace and increasing the efficiency of procurement procedures and practices.

Elgin utilizes a Sustainable Purchasing framework for procurement decision-making that will contribute to Elgin's procurement objective to achieve best value for Elgin by considering the full life cycle of products and their complete economic, environmental and social costs and benefits.

For greater clarity, the *Sustainable Purchasing* program of the City of London will be used as a guide, and undertaken in consideration with Elgin's Environmental Management System and Quality Management System.

## **4.2 General Provisions**

- 4.2.1 Unless otherwise provided in accordance with this Policy, Elgin's Director of Regional Water shall act for Elgin for the purchase and disposal of all goods and/or services and shall be responsible for obtaining, providing, or securing advice necessary for such purchases and/or disposals in accordance with the method of purchase authorized by this Policy.
- 4.2.2 No purchase of goods and/or services shall be authorized unless it is in compliance with this Policy. Goods and/or services that are obtained without following the provisions of this Policy will not be accepted, and any invoices received may not be processed for payment.
- 4.2.3 Unless otherwise provided in accordance with this Policy, the purchase of all goods and/or services shall be authorized in accordance with the provisions of [Schedule "A"](#) to this Policy.
- 4.2.4 Requisitions or purchase orders shall not be arbitrarily structured to alter the relationship of the price to the preauthorized expenditure limit.
- 4.2.5 The procedures prescribed in this Policy shall be followed to make an award or to make a recommendation for an award to the Board.
- 4.2.6 Elgin recognizes that mistakes and misunderstandings may occur; bidders may feel aggrieved and may seek to dispute the recommendation of an award of a contract. To maintain the integrity of the process, bidders who believe they have been treated unfairly can make this known by contacting the Director of Regional Water prior to the award of the contract. The bidder must file the formal dispute for an appeal in writing within two (2) business days of notification to the bidder by Elgin that their bid is not acceptable and request a hearing meeting with the Director of Regional Water (or delegate). This meeting must be held within seven (7) business days of notification. If the bidder disagrees with the decision of the hearing meeting the next step is to formally appeal to the Board in writing within seven (7) business days. The Board will hear the appeal and make a determination regarding the dispute. The Board's decision on the dispute is final.

Elgin may, in its absolute sole discretion, reject any other bids submitted if the bidder, or any officer of the bidder, is or has been engaged, either directly or



indirectly through another Corporation or personally, in/or during a dispute appeal of decision for the contract award action against Elgin.

In determining whether or not to reject a bid under this clause, Elgin will consider delays in awards of this or subsequent contracts and whether the dispute or appeal is likely to affect the bidder's ability to work with Elgin, its consultants and representatives, and whether the experience with the bidder indicates that the Elgin is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the bidder. Elgin will also consider delays in awards of subsequent Elgin contracts with other contractors and the potential for those additional costs resulting in delays associated with this dispute/appeal.

There are strict time limits to file a dispute appeal. If the bidder is unsure of the deadline for appeal, they must seek direction from the Director of Regional Water. Failure to seek and follow these directions will result in the appeal being dismissed.

- 4.2.7 This Policy will be reviewed and revised on a periodic basis. It is anticipated that reviews will be conducted every five (5) years or more frequently as required.
- 4.2.8 Good and/or services NOT subject to this Policy are listed in [Schedule "B"](#). The final determination of whether goods and/or services qualify for exemption under [Schedule "B"](#) shall be determined by the Director of Regional Water.
- 4.2.9 In accordance with Ontario Regulation 191/11 under the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) as amended, Elgin shall consider accessibility criteria and features when procuring or acquiring goods, services, or facilities, except where it is not practicable to do so. In which case, an explanation will be provided upon request.
- 4.2.10 No purchase of goods and services associated with computer software, hardware and/or telecommunications equipment will be authorized without the completion of appropriate cybersecurity and information technology reviews and the authorization of the Director of Regional Water.
- 4.2.11 When Grants or Stimulus Funding are received by Elgin, the use of that funding for procurements is subject to this Policy, notwithstanding any specific conditions placed by the provider.
- 4.2.12 Where any matter or circumstance occurs not provided for by this Policy, the procurement and disposal policies and procedures of the Administering Municipality may be used as a guide with the necessary modifications in the circumstances.

## 4.3 Responsibilities

### 4.3.1 General Responsibilities

All persons with Approval Authority shall follow the guidelines as set out in [Schedule 'D'](#), as well as Section 4.4 below.

Procurement activities shall be subject to all applicable Elgin policies and by-laws, any specific provisions of the *Municipal Act*, and all other applicable Federal and Provincial legislation.

Failure to adhere to the requirements outlined in this Policy may lead to disciplinary action up to and including termination of employment.

No provision of this Policy precludes the Director of Regional Water with the concurrence of the Chief Administrative Officer from recommending an award to the Board where:

- i. In the opinion of the Director of Regional Water, it is in the best interest of Elgin to do so; or,
- ii. It is a matter of procurement procedure and, in the opinion of the Director of Regional Water, is in the best interest of Elgin to do so.

### 4.3.2 Chief Administrative Officer

The Chief Administrative Officer has the authority to instruct the Director of Regional Water not to award contracts and to submit recommendations to the Board for approval and may provide additional restrictions concerning procurement where such action is considered necessary and in the best interest of Elgin.

### 4.3.3 Director of Regional Water

- a. Has responsibility for all procurement activities on behalf of Elgin and is accountable for achieving best value while following the Procurement of Goods and Services Policy;
- b. Is responsible for maintaining ownership over this Policy and its integrity;
- c. Has the authority to delegate approval authority to staff at the appropriate levels (Section 4.7.7);
- d. The Director of Regional Water has the authority to award contracts in the circumstances specified in this Policy provided that the delegated power is exercised within the limits prescribed in [Schedule "A"](#) and the requirements of this Policy are met; and,

- e. When the Director of Regional Water is of the opinion that a Triggering Event has occurred, the Director of Regional Water may authorize the purchase of such goods and/or services as is considered necessary to remedy the situation without regard to the requirement for a competitive bid and may approve the necessary contract amendment. The relevant details surrounding the Triggering Event shall be included in a report and submitted to the Board as soon as reasonably possible.

#### 4.3.4 Board

Despite any other provision of this Policy, the following contracts are subject to Board approval:

- a. Any contract requiring approval from the Ontario Land Tribunal;
- b. Any contract prescribed by Statute to be made by the Board;
- c. Where a recommendation is being made to amend the total value of a contract in excess of the original bid (plus contingency), and;
  - i. it is an amount greater than \$100,000 or 5%; or
  - ii. in the opinion of the Chief Administrative Officer, funds are not available for the additional expenditure.
- d. Where a Substantive Objection, emanating from the competitive bid has been filed with the Director of Regional Water prior to award of the contract;
- e. Where there is an Irregular Result (see Section 4.7.10); and,
- f. Where authority to approve has not been expressly delegated.

#### **4.4 Conflict of Interest**

- 4.4.1 No Board Member or employee of Regional Water or the Administering Municipality shall have a pecuniary or controlling interest either direct or indirect in any competitive bid or contract for the supply of goods or services to Elgin, unless such pecuniary interest is disclosed by the contractor, bidder or person submitting a quotation, as the case may be, or unless such pecuniary interest would be exempt under the *Municipal Conflict of Interest Act*.

- 4.4.2 Competitive bid documents shall include a section that requires and provides for the disclosure of any pecuniary interest prior to submission of the bid. Should a conflict of interest arise after the award of a contract, the conflict shall immediately be disclosed in writing to the Director of Regional Water. Further, all competitive bid documents and agreements shall provide that in the event that a contract is awarded to a person who has not, during the bidding or contracting process, disclosed the pecuniary interest of a Board member, Regional Water employee, or employee of the Administering Municipality in the contract, the contract may be cancelled at any time by Elgin in its entire discretion without damages or penalty.
- 4.4.3 In this section, 'controlling interest' means the interest that a person has in a corporation when the person beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than ten percent (10%) of the voting rights attached to all equity shares of the corporation for the time being outstanding.
- 4.4.4 For the purposes of this section, a person has an indirect pecuniary interest in any competitive bid or agreement entered into by a corporation, if:
- a. The person or his or her nominee is a shareholder in or a director or senior officer of a corporation that does not offer in securities to the public; or
  - b. Has a controlling interest in or is a director or senior officer of a corporation that offers securities to the public.
- 4.4.5 For the purposes of this section, a Board Member, Regional Water employee or employee of the Administering Municipality has an indirect pecuniary interest if the person is a partner of a person or is in the employment of a person or body that has entered into a tender, proposal, quotation or contract with Elgin.
- 4.4.6 For the purposes of this section, the pecuniary interest in a Tender, Proposal, Quotation or contract of a parent or spouse or any child of a Board Member, Regional Water Employee, or employee of the Administering Municipality shall, if known to the person, be deemed to be also the pecuniary interest of the Board Member, Regional Water employee or employee of the Administering Municipality as the case may be.

## **4.5 Prohibitions**

### **4.5.1 Division of Contracts**

No Regional Water employee shall divide a purchase or contract to avoid the requirements of the Tender, Proposal, Quotation or purchasing procedures of this Policy. Nor shall purchases be split in order to circumvent prescribe spending authority dollar limits as outlined in this Policy.

#### 4.5.2 Interference in the Procurement Process

- a. Board Members and Regional Water employees shall not knowingly cause or permit anything to be done or communicated to anyone in a manner which is likely to cause any potential supplier to have an unfair advantage or disadvantage in obtaining a contract for the supply of goods and/or services to Elgin. This also includes a contract with any other municipality, local board, public body or government agency involved in the purchase of goods and/or services either jointly or in cooperation with Elgin.
- b. Board Members shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements. Board Members should not see any documents or receive any information related to a particular procurement while the procurement process is ongoing. Board Members who receive inquiries from suppliers related to any specific procurement shall immediately direct those inquiries to the Director of Regional Water or the Chief Administrative Officer.
- c. The only exception to (b) above relates to selection of an integrity commissioner or an RFP whereby Board Members are specifically part of the evaluation team for the RFP as approved by resolution of the Board.

#### 4.5.3 Official Point of Purchasing Contact and Lobbying Prohibition

- a. Elgin is committed to the highest standards of integrity with respect to the purchase of goods and/or services and managing the processes by which goods and/or services are acquired. The official point of purchasing contact shall be the Procurement Official identified in the competitive bid documents. Should it be necessary or desirable to have a contact person to respond to technical issues that person shall be named in the competitive bid documents. All communications will be made by these individuals and during the procurement process, no bidder or person acting on behalf of the bidder or group of bidders shall contact any Board Member, or consultant with any employee of Regional Water or Elgin's operating authority to attempt to seek information or to influence the award of the contract. Any activity designed to influence the decision process, including, but not limited to, contacting any Board Member, or consultant with any employee of Regional Water or Elgin's operating authority for such purposes as meetings of introduction, social events, meals or meetings related to the selection process, shall result in disqualification of the bidder for the project to which the influential activity is deemed to be directed.
- b. Notwithstanding the foregoing, this prohibition does not apply to meetings specifically scheduled for presentations or negotiations related to the competitive bid. Any bidder found to be in breach of this Policy shall be subject to immediate disqualification from the procurement process and may be prohibited from future opportunities at the discretion of the Board.

- c. In addition, no bidder who has been awarded the contract shall engage in any contact or activities in an attempt to influence any Board Member, or consultant with any employee of Regional Water or Elgin's operating authority with respect to the purchase of additional enhancements, options, or modules. However, a contractor may communicate with the appropriate Procurement Official identified in the competitive bid documents or the Director of Regional Water for purposes of administration of the contract during the term of the contract.
- d. The determination of what constitutes influential activity is in the sole discretion of the Director of Regional Water, acting reasonably, and not subject to appeal.
- e. Contract award decisions shall be based on clear, transparent, and objective criteria that is applied free from political considerations or political interference.

#### **4.6 Procurement Documentation**

- 4.6.1 In order to maintain consistency in Competitive Bid processes, Regional Water shall maintain guidelines on procurement policies and procedures and on the structure, format and general content of procurement documentation. Without limiting the foregoing, the guidelines of the Administering Municipality may be used.
- 4.6.2 The Procurement Official shall review proposed procurement documentation for a Competitive Bid to ensure clarity, reasonableness, quality and consistency with guidelines, and shall advise Regional Water of suggested improvements.
- 4.6.3 Procurement documentation shall avoid use of specific products or brand names.
- 4.6.4 Notwithstanding Section 4.6.3, the Director of Regional Water (or delegate) may specify a specific product, brand name or approved equal for essential functionality purposes (with consideration for operating and maintenance costs) to avoid unacceptable risk or for some other valid purpose. In such instances, the Director of Regional Water (or delegate) shall oversee the procurement to achieve a competitive situation whenever possible.
- 4.6.5 The use of standards in procurement documentation that have been certified, evaluated, qualified, registered or verified by independent nationally or internationally recognized and industry-supported organizations such as, but not limited to, the Standards Council of Canada, shall be preferred.
- 4.6.6 Director of Regional Water (or delegate) shall:
  - a. Give consideration to Value Analysis, Sustainable Purchasing and supplier code of conduct;

- b. Ensure that adequate Value Analysis comparisons are conducted to provide assurance that the specification(s) will provide best value;
  - c. Forward the Value Analysis to Purchasing and Supply for documentation in the procurement file; and
  - d. Ensure specification(s) are set to allow for an open competitive process.
- 4.6.7 All substantive changes to standard clauses in Competitive Bid documents and standard agreements shall be reviewed by Elgin's solicitor (or delegate).
- 4.6.8 Unless otherwise noted in this Policy, the Director of Regional Water (or delegate) shall issue Competitive Bid documents for goods and/or services. The Procurement Official shall give notice of the issuance of a Competitive Bid electronically via the internet as well as any other means as appropriate.

#### **4.7 Approval Authority and Reporting Requirements**

- 4.7.1 Any person having delegated approval authority pursuant to this Policy shall ensure that an approved budget, as described in Section 4.16 of this Policy, exists for the proposed procurement and that such procurement does not violate any Elgin policies or any applicable law. Any such procurement shall also satisfy any applicable audit and documentation requirements of Elgin.
- 4.7.2 All applicable taxes, duties and shipping shall be excluded in determining the procurement limit of authorized delegates and the type of procurement process to be followed.
- 4.7.3 The dollar values identified in this section 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 over a twelve (12) month period for a particular good and/or service.
- 4.7.4 In the case of multi-year supply and/or service contracts, the preauthorized expenditure limit shall refer to the estimated annual expenditure under the contract.
- 4.7.5 The following body and persons shall have the respective approval authority as set out below (see summary in [Schedule "A"](#)). All dollar values are based on annual amounts and must be within pre-approved budgeted limits.
- a. **Board** must approve the following awards:
    - i. RFP or RFT greater than the CETA threshold for goods, services or construction, as amended;
    - ii. RFP or RFT is greater than \$100,000 and having an Irregular Result (see Section 4.7.10); and,

- iii. Sole Source or Single Source greater than \$100,000.
- b. **Chief Administrative Officer** is authorized to approve the following awards:
  - i. Professional Consulting Services greater than \$100,000 and less than the CETA threshold for services, as amended.
- c. **Director of Regional Water and the Chief Administrative Officer** (jointly) are authorized to approve the following awards:
  - i. Sole Source or Single Source up to \$100,000;
  - ii. RFP or RFT up to \$100,000 and having an Irregular Result (see Section 4.7.10);
  - iii. RFP or RFT of \$50,000 up to \$100,000 and in excess of the Board approved budget; and,
  - iv. RFP or RFT of \$100,000 up to the CETA threshold for goods, services or construction and not exceeding the Board approved budget.
- d. **Director of Regional Water** is authorized to approve the following awards
  - i. Informal quotations up to \$50,000 and in excess of the Board approved budget; and,
  - ii. Professional Consulting Services not exceeding \$100,000.
- e. **Director of Regional Water** or any Regional Water employee exercising delegated authority approval are authorized to approve the following awards:
  - i. Informal quotations up to \$50,000 not exceeding the Board approved budget; and,
  - ii. RFQ or RFP up to \$100,000 not exceeding the Board approved budget.

4.7.6 Section 4.7.5 approvals may be overridden in the case of an 'emergency' as defined in Section 4.13.2 of this Policy.

#### 4.7.7 Delegation of Approval Authority

The method for the Director of Regional Water delegating approval authority is as follows:

- i. The Director of Regional Water shall prepare a 'delegation of approval authority list' for Regional Water;
- ii. The list will provide evidence that the staff listed have been delegated approval authority by the Director of Regional Water;
- iii. The list at minimum, shall include the staff person's name, title and approval limit, the list will also include any acting roles;



- iv. The list shall be updated immediately upon any change in staff or position;
- v. A copy of the list shall be sent to the Administering Municipality's Manager of Purchasing and Supply for reference each time there is a revision to the list;
- vi. The Administering Municipality's Manager of Purchasing and Supply will ensure the delegation of approval authority lists are available to Administering Municipality's staff as appropriate; and,
- vii. The Administering Municipality's Purchasing and Supply staff will review the list prior to completing tasks that require approval.

4.7.8 Only the Director of Regional Water may further delegate approval authority to their staff at the procurement values deemed appropriate. Regional Water staff that have been delegated approval authority from the Director of Regional Water to approve procurement shall have no authority to delegate this approval authority to any other person.

4.7.9 The Board may explicitly delegate further approval authority as it considers necessary from time to time, including but not limited to, any extended time periods which the Board does not meet.

#### 4.7.10 Irregular Result

- a. The Director of Regional Water may approve a Competitive Bid up to \$50,000 where the value of the lowest compliant bid is in excess of the Board approved budget including any contingency allowance.
- b. The Director of Regional Water jointly with the Chief Administrative Officer may approve a Competitive Bid up to \$100,000 if any of the following conditions apply:
  - i. The value of the lowest compliant bid is in excess of the Board approved budget including any contingency allowance;
  - ii. The specifications of a competitive bid cannot be met by two (2) or more suppliers;
  - iii. The award is not being made to a compliant bidder(s) offering the Best Value to Elgin; or,
  - iv. Where a Substantive Objection has been filed prior to award of a Competitive Bid
- c. The Director of Regional Water and the Chief Administrative Officer shall submit a report to the Board and receive their approval for the award of a Competitive Bid greater than \$100,000 if any of the following conditions apply:
  - i. The value of the lowest compliant bid is in excess of the Board approved budget including any contingency allowance;

- ii. The specifications of a competitive bid cannot be met by two (2) or more suppliers;
- iii. The award is not being made to a compliant bidder(s) offering the Best Value to Elgin; or,
- iv. Where a Substantive Objection has been filed prior to award of a Competitive Bid.

#### 4.7.11 Reporting to the Board

- a. On an annual basis, the Director of Regional Water shall provide a summary report to the Board outlining each occurrence where delegated approval authority was used to award a Contract in excess of \$15,000, amend or extend a Contract, and/or amend Board approved budgets in accordance with this Policy.
- b. On an annual basis, the Director of Regional Water shall provide a summary report to the Board outlining each occurrence where delegated approval authority was used to dispose of Elgin assets in accordance with this Policy.

#### **4.8 Low Dollar Value Procurements (up to \$15,000) as per [Schedule 'A'](#)**

- 4.8.1 Procurements up to \$15,000 shall be considered low dollar value procurements.
- 4.8.2 A Purchasing Card provided by the Administering Municipality may be used for low dollar value procurements provided that the procurement complies with the Administering Municipality's Procurement of Goods and Services Policy, as applicable.
- 4.8.3 The Director of Regional Water may delegate approval authority to Regional Water staff for low dollar value procurements and it is their responsibility to ensure that this Policy is adhered to.
- 4.8.4 All information on low dollar value procurements must be documented and maintained on file.
- 4.8.5 Elgin's standard insurance form(s) must be completed for all Informal Quotations as appropriate.
- 4.8.6 WSIB Certificates of Clearance must be obtained at the commencement of the project and as needed before final payment is released.
- 4.8.7 Low dollar value procurements do not require an RFQ, RFP or RFT. Obtaining competitive quotes is considered a good business practice and should be obtained where reasonably practicable. An authorized Purchase Order is the preferred method.

**4.9 Informal Request for Quotation (IRFQ) \$15,000 to \$50,000 – as per [Schedule 'A'](#)**

- 4.9.1 Procurements greater than \$15,000 but not exceeding \$50,000 are eligible to be completed through an Informal Quotation process. The Director of Regional Water or any employee exercising delegated authority is authorized to award the contract.
- 4.9.2 All Informal Quotations shall be in accordance with the Procurement of Goods and Services Policy.
- 4.9.3 Informal Quotations shall be obtained in the following manner:
- a. Three (3) written (use of the electronic bidding system is encouraged) bids obtained from three (3) separate potential suppliers;
  - b. A 'No Bid' response shall not be considered as a valid bid;
  - c. All suppliers shall receive the same informal quotation written information;
  - d. The informal quotation shall be awarded to the lowest compliant bid; and
  - e. Documentation on all bids, including but not limited to the prospective bidders list, bid document, bid responses and decision-making rationale shall be retained in the project files in for a minimum of two (2) years and in accordance with the Retention Policy of Elgin.
- 4.9.4 Regional Water staff are encouraged to seek at least three (3) bids to ensure a more competitive process. If staff has exhausted all efforts to obtain three (3) bids and can support this with documented evidence under Section 4.9.3.e. above, a minimum of two (2) written bids is acceptable.
- 4.9.5 Regional Water staff may seek the assistance of the Administering Municipality's Purchasing and Supply division is obtaining Informal Quotations.
- 4.9.6 Elgin's standard insurance form(s) must be completed for all Informal Quotations as appropriate.
- 4.9.7 WSIB Certificates of Clearance must be obtained at the commencement of the project and as needed before final payment is released.
- 4.9.8 An authorized Purchase Requisition may be issued and shall include copies of the Bids received.

**4.10 Request for Quotation (RFQ) \$50,000 to \$100,000 – [as per Schedule 'A'](#)**

- 4.10.1 RFQ procedures shall be used where:
- a. The item is greater than \$50,000 but not exceeding \$100,000;

- b. The requirement can be fully defined; and,
  - c. Best value for Elgin will be achieved by an award selection made on the basis of the total lifecycle cost that meets all terms, conditions and specifications.
- 4.10.2 The Director of Regional Water or any Regional Water employee exercising delegated authority approval may approve this award.
- 4.10.3 Elgin's standard insurance form(s) must be completed for all Informal Quotations as appropriate.
- 4.10.4 WSIB Certificates of Clearance must be obtained at the commencement of the project and as needed before final payment is released.
- 4.10.5 The Director of Regional Water or any Regional Water employee exercising delegated authority approval shall submit a Purchase Request in writing containing the relevant specifications, budget authorization, approval authority and terms and conditions for the purchase of goods, services or construction.
- 4.10.6 Regional Water shall be responsible to review the competitive bid and verify that all terms, conditions and specifications of the bid are met.
- 4.10.7 Elgin reserves the right in its absolute sole discretion to accept or reject any submission.

**4.11 Request for Proposal (RFP) – as per [Schedule 'A'](#)**

4.11.1 The RFP procedure shall be used where:

- a. The requirement is best described in a general performance specification;
- b. Innovative solutions are sought; and,
- c. To achieve best value, the award selection will be made on an evaluated point per item or other method involving a combination of mandatory and desirable requirements.

4.11.2 Awards under the RFP process require the following approval:

- a. Except in the case of an award for Professional Consulting Services or an Irregular Bid, the Director of Regional Water or any Regional Water employee exercising delegated authority approval may approve an RFP award for purchases up to \$100,000;
- b. Except in the case of an award for Professional Consulting Services or an Irregular Bid, the Director of Regional Water and the Chief Administrative Officer must jointly approve an RFP award for purchases greater than \$100,000 up to the threshold value established under CETA; and,
- c. The Board must approve an RFP award for purchases greater than the threshold value established under CETA.

- 4.11.3 The RFP process is a competitive method of procurement that may or may not include supplier pre-qualification.
- 4.11.4 An RFI, REOI or RFQUAL may be issued in advance of a RFP to assist in the development of a more definitive set of terms and conditions, scope of work/service and the selection of qualified suppliers.
- 4.11.5 An RFI, REOI and RFQUAL shall follow the same award approvals as an RFP, if applicable.
- 4.11.6 Regional Water may maintain a list of suggested evaluation criteria for assistance in formulating an evaluation method for use in an RFP, or may use a list of suggested evaluation criteria from the Administering Municipality. This may include but not be limited to factors such as qualifications and experience, strategy, approach, methodology, scheduling and past performance, facilities, equipment, pricing, life cycle costing, standardization of product, and aspects that would support environmental procurement.
- 4.11.7 The Director of Regional Water or any Regional Water employee exercising delegated authority approval shall identify appropriate evaluation criteria from the list for use in an RFP but are not limited to criteria from the list. Cost will always be included as a factor, as best value includes but is not limited to quality and cost.
- 4.11.8 The Director of Regional Water or any Regional Water employee exercising delegated authority approval shall submit a written Purchase Request containing the budget authorization, approval authority, terms of reference and evaluation criteria to be applied in evaluating the proposals submitted.
- 4.11.9 A designated Procurement Official will be the lead in the RFP process. A selection committee will be formed with a minimum of three evaluators. The evaluators shall review all compliant proposals against the established criteria, reach consensus on the final rating results, and ensure that the final rating results with supporting documents, are kept in the procurement file. The Purchasing and Supply representative may or may not participate in the scoring of the proposals.
- 4.11.10 During the proposal process all communication with proponents shall be through the designated Procurement Official.
- 4.11.11 The Procurement Official shall provide an evaluation summary of the procurement, as well as the evaluation committee's recommendation for award of contract to the proponent which meets all mandatory requirements and providing best value as stipulated in the RFP. The Procurement Official is responsible for documenting the determination of best value. The criteria and analysis to determine best value will be included (if applicable) in the report to the Board.

- 4.11.12 Reporting will not include financial summaries of bids as this information will remain confidential. Any disclosure of information shall be made by the appropriate officer in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, as amended.
- 4.11.13 Unsuccessful proponents may, upon their request, attend a debriefing session with the Procurement Official to review their competitive bid. Any discussions relating to any submissions other than that of the proponent present will be strictly prohibited. This debriefing session is intended to provide general feedback regarding the proponent's rating on various criteria in order to allow the proponent to understand where future improvements might be available.
- 4.11.14 Elgin reserves the right in its absolute sole discretion to accept or reject any submission.

#### **4.12 Request for Tender (RFT) Greater than \$100,000 – as per [Schedule 'A'](#)**

##### 4.12.1 RFT procedures shall be used where:

- a. The total cost is expected to be greater than \$100,000;
- b. The requirement can be fully defined; and,
- c. Best value for Elgin can be achieved by an award selection made on the basis of the lowest bid that meets all terms, conditions and specifications.

##### 4.12.2 Awards under the RFT process require the following approval:

- a. The Board must approve an RFT award for tenders greater than the threshold value established by CETA, or where sufficient funds are not available within the appropriate account;
- b. The Board must approve an RFT award for an Irregular Bid; and,
- c. The Director of Regional Water and the Chief Administrative Officer must jointly approve an RFT Award up to the threshold value established by CETA and where there are sufficient funds available within the appropriate account.

##### 4.12.3 The Director of Regional Water (or delegate) shall submit a purchase request in writing containing the relevant specifications, budget authorization, approval authority and terms and conditions for the purchase of goods, services or construction. Specifications may include certain brands of product in order to facilitate standardization of Elgin's inventory as per Section 4.6.4 of this Policy.

##### 4.12.4 The Procurement Official shall be responsible for arranging for the public disclosure of bid submissions at the time and date specified by the bid call.

##### 4.12.5 The Procurement Official shall provide a summary of the bids and recommend award of the contract to the lowest compliant bidder.

4.12.6 Elgin reserves the right in its absolute sole discretion to accept or reject any submission.

#### **4.13 Non-Competitive Purchases (Emergency, Sole Source, Single Source)**

4.13.1 The requirement for a Competitive Bid process for the selection of a supplier for goods, services and construction (except for Emergencies – see Section 4.13.2) may be waived under the authority of the Chief Administrative Officer and replace with direct negotiations by the Director of Regional Water (or Delegate) under the following circumstances:

- a. The procurement qualifies as a “Sole Source” as defined in Section 4.13.3; or,
- b. The procurement qualifies as a ‘Single Source’ as defined in Section 4.13.4.

#### **4.13.2 Procurement in Emergencies**

For the purpose of this section, and in addition to Section 3, “Emergency” shall mean an event or occurrence that in the opinion of the Chief Administrative Officer or the Director of Regional Water deem as an immediate threat to:

- Public health;
- The maintenance of essential Elgin services; or,
- The welfare and protection of persons, property, or the environment; and the event or occurrence necessitates the immediate need for goods or services to mitigate the emergency and time does not permit for a competitive procurement process.

In the event of an Emergency the Chief Administrative Officer or Director of Regional Water and their respective delegates, are authorized to enter into a purchase agreement utilizing the Emergency Reserve Fund as the source of finance without the requirement for a formal competitive process.

A list of pre-qualified suppliers will be used to select the suppliers, whenever possible.

Where the procurement cost to mitigate the Emergency is anticipated to exceed \$50,000:

- i. A notification must be sent (e-mail is acceptable) to the Finance department of the Administering Municipality, copied to the Administering Municipality’s Purchasing and Supply division, requesting a project number for the Emergency. The notification must include an outline of the nature of the emergency (referencing this section of this Policy), estimated budget for the project, and primary contact;

- ii. A notification must be sent (e-mail is acceptable) to the Board notifying the Board Members of the nature of the emergency and that the Emergency provisions of this Policy have been used; and,

The steps taken to mitigate the Emergency must always be clearly documented regardless of amount.

Where the aggregate costs for the Emergency are in excess of \$50,000, the emergency procurement shall be reported at the next scheduled meeting of the Board.

#### 4.13.3 Sole Source

The procurement may be conducted using a Sole Source process if the goods and/or services are available from only one supplier by reason of:

- a. Statutory or market based monopoly;
- b. Competition is precluded due to the application of any Act or legislation or because of the existence of patent rights, copyrights, license, technical secrets or controls of raw material; or,
- c. The complete item, service, or system is unique to one supplier and no alternative or substitute exists.

#### 4.13.4 Single Source

Single Source means that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications.

The procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular, as follows:

- a. An attempt to acquire the required goods and/or services by soliciting competitive bids has been made in good faith, but has failed to identify more than one willing and compliant supplier;
- b. The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive bids;
- c. Construction, renovations, repairs, maintenance etc. in respect of a building leased by Elgin may only be done by the lessor of the building, in accordance with a lease agreement;
- d. There is a need for compatibility with goods and/or services previously acquired or the required goods and/or services will be additional to similar goods and/or services being supplied under an existing contract (i.e., contract extension or renewal);



- e. The required goods and/or services are to be supplied by a particular supplier(s) having special knowledge, skills, expertise or experience;
- f. The goods are purchased under circumstances which are exceptionally advantageous to Elgin, such as in the case of a bankruptcy or receivership;
- g. It is advantageous to Elgin to acquire the goods or services from a supplier pursuant to the procurement process conducted by another public body;
- h. It is advantageous to Elgin to acquire the goods or services directly from another public body or public service body;
- i. Another organization is funding or substantially funding the acquisition and has determined the supplier, and the terms and conditions of the commitment into which Elgin will enter are acceptable to Elgin;
- j. The acquisition is for a particular brand of goods or services that are intended solely for resale to the public and no other brand is desirable and the brand is not available from any other source; or,
- k. Where due to abnormal market conditions, the goods, services or construction required are in short supply.

#### 4.13.5 Sole Source and Single Source – Approval and Reporting

Awards which qualify to be considered as Single Source or Sole Source process require the following approval:

- i. The Director of Regional Water and the Chief Administrative Officer must jointly approve an award not exceeding \$100,000; or,
- ii. The Board must approve an award greater than \$100,000 unless otherwise permitted by this Policy.

### **4.14 Appointment of Professional Consulting Services**

#### 4.14.1 General

- a. Senior management staff will be involved in the selection process for Professional Consulting Services. Specifically, the Senior Manager of Capital Programs is to be involved with all projects, and Director of Regional Water for high-profile projects of increasing complexity or expense.
- b. Under no circumstances shall an extension or expansion of a consulting engagement preclude the required approvals. This includes splitting the project or scope of work into multiple phases or sections. The Board has sole authority to approve and award contracts greater than the CETA threshold for services, as amended.

- c. If a consulting engagement that was previously awarded administratively subsequently exceeds the CETA threshold for services, the Director of Regional Water shall prepare an information report for the Board providing a status update and requesting approval to proceed (if applicable).
- d. The Director of Regional Water shall be responsible for ensuring that a MEA Consulting Services Agreement is executed for engineering consulting assignments. Notwithstanding, if an alternative agreement is used for any consulting services, the agreement must be reviewed by the Board's solicitor. The MEA Consulting Services Agreement or alternate consulting services Agreement must be executed by the Chief Administrative Officer and Board Chair, or their delegate.
- e. The Director of Regional Water shall be responsible for ensuring that appropriate insurance and WSIB documents are obtained and submitted to the Administering Municipality's Risk Management division and copies kept with the project file.
- f. On an annual basis, the Director of Regional Water shall provide a summary report to the Board outlining each occurrence where Consulting Services were administratively awarded, or a Consulting Services agreement was amended or extended in accordance with this Policy.

#### 4.14.2 Consulting Engineers, Architects, Landscape Architects and Environmental Consultants

The selection of Professional Consulting Services will follow the requirements of Section 4.14.1; and,

- a. Elgin's appointment of Consulting Engineers, Architects, Landscape Architects and Environmental Consultants in this Policy is adapted from the National Best Practice for Consultant Selection and as described in more detail in the Administering Municipality's Grouped Consultant Selection Process.
- b. A list of pre-approved firms (Consulting Engineers, Architects, Landscape Architects and Environmental Consultants) that provide professional consulting services shall be established by the Director of Regional Water.
- c. Assignments for projects which have estimated fees of less than \$100,000 shall be awarded by the Director of Regional Water to listed candidate firms based on an evaluation of the firm's competency, expertise, costs, past performance on Elgin projects, available capacity, and the size of their operation and the particulars of the work to be done.
- d. Assignments for projects which are more complex in nature but which are within the capability of firms included on the above-mentioned pre-approved list and have estimated fees between \$100,000 and the CETA threshold for

- goods and services limit, as amended, shall be assigned on the basis of a proposal submitted by a minimum of three (3) qualified firms from the list stating their approach to the proposed project and their experience and knowledge of projects of a similar nature. Grouped Consultant Selection process may be undertaken for more than one project if the projects are similar in nature, the consultants possess the skills necessary to undertake this type of work and efficiencies are realized by Elgin. The Administering Municipality's Grouped Consultant Selection Process may be used as a guide in the process for undertaking grouped consultant selections.
- e. Except in the case of an Irregular Bid, Assignments for projects which have estimated fees between \$100,000 and the CETA threshold for goods and services, as amended, shall be awarded by the Chief Administrative Officer.
  - f. Assignments for complex projects, or projects with estimated consulting fees greater than the CETA threshold for goods and services limit, as amended, shall be awarded based on a two (2) stage process with the first stage being an open, publicly advertised expression of interest/pre-qualification stage (REOI/RFQUAL), and the second being a RFP of the short-listed firms, of which there shall be a minimum of three (3) qualified firms stating their approach to the proposed project and their experience and knowledge of projects similar in nature.
  - g. The assignments of an Irregular Bid outlined in parts d) and any assignment outlined in f) above and their related budget shall be subject to the approval of the Board. Prior to award by the Board, Regional Water staff will negotiate with the recommended consultant to establish the estimated personnel costs and other charges required for the assignment. It is anticipated that an upset fee will be established for the first phase of the project as directed by the Director of Regional Water. Board approval will be for the entire project noting that the consultant shall obtain the approval of the Director of Regional Water to proceed with subsequent phases to upset limits as appropriate to the work within the limit of the budget.
  - h. A consulting firm which has satisfactorily partially completed a project may be recommended for award of the balance of a project without competition subject to satisfying all financial, reporting and other conditions contained within this Policy. This should be to the financial advantage of Elgin due to the fact that such a consultant has specific knowledge of the project and has undertaken work for which duplication would be required if another firm were to be selected.

#### 4.14.3 Other Professional Consulting Services

The selection of Professional Consulting Services which are not included under Section 4.14.2 will follow the requirements of Section 4.14.1; and,

- a. Projects which have estimated fees of less than \$100,000 may be awarded by the Director of Regional Water under the following circumstances:
  - i. the project requires special knowledge, skills, expertise or experience; or,
  - ii. another organization is funding or substantially funding the project and has already selected a preferred firm and/or strict timelines have been placed on the funding; or,
  - iii. the confidential nature of the project is such that it would not be in the public interest to solicit competitive bids; or,
  - iv. the preferred firm has already been selected through a formal procurement process by another public body to provide same or similar services; or,
  - v. the project requirement meets the definition of Sole Source, Section 4.13.3.
- b. The Director of Regional Water is responsible for detailing the rationale supporting their decision to award the recommended firm.
- c. Under this section, all professional consultant proposals must include, at minimum:
  - i. Schedule of fees;
  - ii. Methodology and timeline to complete project;
  - iii. Demonstrated experience and qualifications required to perform project; and,
  - iv. List of personnel who will be directly involved in the completion of the project.
- d. All requirements for Other Professional Consulting Services (section 4.14.3) not meeting the selection requirements of section 4.14.3(a) shall follow the RFP process outlined in Section 4.11

#### **4.15 Blanket Purchase Contracts**

A Blanket Purchase Contract established by the Administering Municipality's Purchasing and Supply, in accordance with the Administering Municipality's Procurement of Goods and Services Policy, may be used when in the best interest of Elgin.

#### **4.16 Requirement for Approved Funds**

- 4.16.1 The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts within Board approved budget for Elgin.
- 4.16.2 Where goods and/or services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:
- a. The identification and availability of sufficient funds in appropriate accounts for the current year within the Board approved budget;
  - b. The requirement for the goods or services will continue to exist in subsequent years and, in the opinion of the Director of Regional Water, the required funding can reasonably be expected to be made available; and,
  - c. The contract containing a provision that the supply of goods or services in subsequent years is subject to the approval by the Board.

#### **4.17 Bid Administration**

The Bid Administration process of the Administering Municipality's Procurement of Goods and Services Policy may be used as a guide, subject to appropriate alteration and interpretation to meet the conditions of this Policy.

The protocol for bid irregularities and their associated responses are detailed in [Schedule 'C'](#) of this Policy.

#### **4.18 Contract Administration**

##### **4.18.1 Contractual Agreement**

- a. The award of a contract may be made by way of an Agreement, Contract Record or Purchase Order.
- b. A Purchase Order or Contract Record is to be used when the resulting contract is straightforward and will contain Elgin's standard terms and conditions.
- c. Agreement is to be used when the resulting contract is complex and will include terms and conditions other than Elgin's standard terms and conditions.
- d. It shall be the responsibility of the Director of Regional Water (or delegate) and/or the Chief Administrative Officer to determine if it is in the best interest of Elgin to establish an agreement with the supplier.
- e. Where it is determined that Section 4.18.1.d is to apply, the agreement shall be reviewed for execution by Elgin's solicitor unless a standard MEA Consulting Services Agreement is used, as appropriate.

- f. Where an agreement is required, as a result of the award of a contract by delegated authority, the Board Chair and Chief Administrative Officer shall execute the agreement in the name of Elgin unless delegated in writing in accordance with the Delegation of Powers and Duties Policy.
- g. Where an agreement is issued, a Purchase Order or Contract Record may be issued incorporating the formal agreement.
- h. Where an agreement is not required, an authorized Purchase Order or Contract Record may be issued incorporating the terms and conditions relevant to the award of contract.

#### 4.18.2 Exercise of Contract Renewal Options

- a. Where a contract contains an option for renewal, the Director of Regional Water may authorize the exercise of such option provided that all of the following apply:
  - i. the supplier's performance in supplying the goods and/or services or construction is considered to have met the requirements of the contract;
  - ii. any price increases are consistent with the prevailing market conditions for the goods or services being purchased;
  - iii. the facts justifying the decision to award this supplier previously are still relevant at the time of contract renewal;
  - iv. funds are available or will be available in appropriate accounts within Board approved budget, including authorized revisions, to meet the proposed expenditure;
  - v. The relevant Board report, if applicable, clearly identified the options to extend;
  - vi. the Director of Regional Water and the Chief Administrative Officer agree that the exercise of the option is in the best interest of Elgin; and
  - vii. compliance with Sections i. through v. is documented, authorized by the Director of Regional Water and saved with the project file.
- b. Approval for contract renewals and extensions shall be governed by Section 4.7.5 and [Schedule "A"](#) of this Policy.

#### 4.18.3 Contract Amendments

- a. No amendment to a contract shall be made unless the amendment is in the best interest of Elgin.
- b. No amendment that changes the price of a contract shall be agreed to without a corresponding change in requirement or scope of work.

- c. Amendments to contracts are subject to the identification and availability of sufficient funds in appropriate accounts within Board approved budgets including authorized amendments.
- d. Director of Regional Water jointly with the Chief Administrative Officer may authorize amendments when:
  - i. the total amended value of the contract (original contract plus amendment) is within the approval limit as noted in [Schedule "A"](#) of this Policy; or,
  - ii. the contract amendment will not exceed the originally approved contract by an amount greater than \$100,000 or 5% of contract value, whichever is greater, and there are sufficient funds available.
- e. The Board must authorize contract amendments when:
  - iii. the total amended value of the contract will be greater than the administrative approval threshold under Section 4.18.3.d above; or,
  - iv. the total amended value of the contract will exceed the originally approved contract by an amount greater than \$100,000 or 5% of contract value, whichever is greater, and there are funds available.

#### 4.18.4 Performance Evaluation

The Director of Regional Water may develop and implement a Performance Evaluation program for contractors and consultants to be used in conjunction with Bid Administration in accordance with Section 4.17 of this Policy.

### **4.19 Disposal of Materials and Equipment**

#### 4.19.1 Obsolete and/or Surplus Materials and Equipment

- a. If materials and equipment are designated as obsolete, they may be offered for sealed bids, public auction or other public sale, depending in the opinion of the Director of Regional Water on which method is most suitable for the equipment or material involved.
- b. Auctions are held as required dependent upon the individual circumstances such as delivery of replacement items and storage capacity.
- c. The disposal of material and equipment where the removal and disposal are intrinsic to a project is excluded from this Policy and is deemed to have been approved by the Board with the approval of the project.

#### 4.19.2 Scrap Materials and Equipment

Material and equipment deemed to be scrap may be disposed of by:

- i. General advertising to secure sealed bids;

- ii. Direct contact with the appropriate dealers to view the scrap and submit offers to purchase;
- iii. Public auction; or,
- iv. Other methods as deemed appropriate.

#### 4.19.3 Revenue and Reporting to the Board

- a. On an annual basis, the Director of Regional Water shall provide a summary report to the Board outlining each occurrence where material and equipment was disposed of in accordance with this Policy.
- b. The revenue from the sale of obsolete material shall be credited to the appropriate Elgin account.

### **4.20 General**

#### 4.20.1 Cooperative Purchasing

- a. Elgin may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interests of Elgin to do so.
- b. The decision to participate in cooperative purchasing agreements will be made by the Director of Regional Water.
- c. The individual policies of the government agencies or public authorities participating in the cooperative competitive bid are to be the accepted by-law for that particular competitive bid.

#### 4.20.2 Direct Solicitation

- a. Unsolicited proposals received by Elgin shall be referred to the Director of Regional Water for review.
- b. Any procurement activity resulting from the receipt of an unsolicited proposal shall comply with the provisions of this Policy.
- c. A contract resulting from an unsolicited proposal shall be awarded on a non-competitive basis only when the procurement complies with the requirements of a non-competitive procurement, as detailed in Section 4.13.

#### 4.20.3 Resolution of Questions

Any question involving the meaning or application of this Policy is to be submitted to the Chief Administrative Officer who will resolve the question.



#### 4.20.4 Access to Information

The disclosure of information received relevant to the issue of competitive bids or the award of contracts emanating from competitive bids shall be made by the appropriate officers in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990*, as amended. This includes, but is not limited to, records and information pertaining to a competitive bid if the disclosure could reasonably be expected to:

- i. significantly prejudice the competitive position or significantly interfere with the contractual or other negotiations of a person, corporation or other entity that responds, or intends to respond to a request for bids;
- ii. result in similar information no longer being supplied to Elgin where it is in the public interest that similar information continues to be so supplied;
- iii. result in undue loss or gain to any person, group, committee or financial institution or agency; or,
- iv. result in information whose disclosure could reasonably be expected to be injurious to the financial interests of Elgin.

#### 4.20.5 Local or Geographical Preference

Elgin shall not give any local or geographical preference during the competitive bid process. Elgin may mandate certain bona fide on-site response time requirements for specific situations as appropriate.

#### 4.20.6 Terms and Conditions

All standard Elgin Terms and Conditions for all procurement activities will govern unless there is written approval for the proposed changes from the Director of Regional Water in consultation with Elgin's Solicitor if applicable.

#### 4.20.7 Application of Trade Agreements

This Policy is subject to applicable Trade Agreement including, but not limited CETA.

## Schedule 'A' – Levels of Contract Approval Authority

Sales taxes, excise taxes, goods and service taxes and duties shall be excluded in determining the price of a contract for the supply of goods or services for the purpose of the relationship of the price to the preauthorized expenditure limit. In the case of multi-year supply and/or service contracts, the preauthorized expenditure limit shall refer to the estimated annual expenditure under the contract.

Copies of quotations, tenders, proposals and related documents must be retained for a period of not less than two years following the completion of the provision of the Goods & Services, and as determined by the Retention Policy.

Emergencies as defined in Section 4.13.2 are exempt from this Approval Authority.

**Table 1: Goods & Services, excluding Consulting Services**

<b>Value</b> (excluding taxes, duty & shipping)	<b>Tool / Procurement Process</b>	<b>Approval Authority</b>	<b>Policy Section</b>
Less than \$15,000	Purchasing Card or Purchase Order	Director of Regional Water or any Regional Water employee exercising delegated authority approval	4.8
\$15,000 to \$50,000	IRFQ – min. of three written quotes	Director of Regional Water or any Regional Water employee exercising delegated authority approval	4.7.5 4.9
	Amount exceeding approved project budget	Director of Regional Water	4.7.10
	Single Source or Sole Source	Director of Regional Water and Chief Administrative Officer (Jointly)	4.7.5
Greater than \$50,000 to \$100,000	RFQ	Director of Regional Water or any Regional Water employee exercising delegated authority approval	4.7.5 4.10

<b>Value</b> (excluding taxes, duty & shipping)	<b>Tool / Procurement Process</b>	<b>Approval Authority</b>	<b>Policy Section</b>
	RFP	Director of Regional Water or any Regional Water employee exercising delegated authority approval	4.7.5 4.11
	Irregular Result	Director of Regional Water and Chief Administrative Officer (Jointly)	4.7.10
	Amount exceeding approved project budget	Director of Regional Water and Chief Administrative Officer (Jointly)	4.7.10
	Single Source or Sole Source	Director of Regional Water and Chief Administrative Officer (Jointly)	4.7.5
Greater than \$100,000 to the CETA threshold, as amended	RFP	Director of Regional Water and Chief Administrative Officer (Jointly), where sufficient funds are available within appropriate accounts.  Board, where sufficient funds are not available within appropriate accounts.	4.7.5 4.11
	RFT	Director of Regional Water and Chief Administrative Officer (Jointly), where sufficient funds are available within appropriate accounts.  Board, where sufficient funds are not available within appropriate accounts.	4.7.5 4.12
	Irregular Result	Board	4.7.10

<b>Value</b> (excluding taxes, duty & shipping)	<b>Tool / Procurement Process</b>	<b>Approval Authority</b>	<b>Policy Section</b>
	Amount exceeding approved project budget	Board	4.7.10
	Single Source or Sole Source	Board	4.7.5
Less than the CETA threshold limit, as amended	Contract Extensions – previously approved by the Board	Director of Regional Water and Chief Administrative Officer (Jointly)	4.18.2
Greater than the CETA threshold limit, as amended	RFP	Board	4.7.5
	RFT	Board	4.7.5
	Contract Extension – previously approved by the Board	Board	4.18.2
Up to \$100,000 or 5% of the Contract Value	Contract Amendments – subject to availability of sufficient funds in appropriate accounts and budget	Director of Regional Water and Chief Administrative Officer (Jointly)	4.18.2 4.18.3

**Table 2: Consulting Services**

<b>Value</b> (excluding taxes, duty & shipping)	<b>Tool / Procurement Process</b>	<b>Approval Authority</b>	<b>Policy Section</b>
Less than \$100,000	RFP or appointment from pre-approved list	Director of Regional Water	4.14.2
	Irregular Bid	Chief Administrative Officer	4.14.2
\$100,000 to the CETA threshold for <u>services</u> limit, as amended	RFP from at least three qualified firms	Chief Administrative Officer	4.14.2
	Irregular Bid	Board	4.14.2
Greater than the CETA threshold for <u>services</u> limit, as amended	Two-stage procurement: RFQual and RFP	Board	4.14.2
	Irregular Bid	Board	4.14.2
Less than the CETA threshold limit, as amended	Contract Extensions – previously approved by the Board	Director of Regional Water and Chief Administrative Officer (Jointly)	4.18.2
Greater than the CETA threshold limit, as amended	Contract Extensions – previously approved by the Board	Board	4.18.2
Up to \$100,000 or 5% of the Contract Value	Contract Amendments – subject to availability of sufficient funds in appropriate accounts and budget	Director of Regional Water and Chief Administrative Officer (Jointly)	4.18.2 4.18.3

## Schedule 'B' – Goods and/or Services Not Subject to this Policy

1. Training and Education, including:
  - a. Conventions, conference, seminars, and courses;
  - b. Magazines, subscriptions, and periodicals;
  - c. Memberships;
  - d. Staff development;
  - e. Staff workshops; and,
  - f. Staff relations
2. Refundable employee expenses, using the Administering Municipality's Travel & Business Expense Policy as a guide.
3. General Expenses, including:
  - a. Payroll and payroll deductions;
  - b. Medicals;
  - c. Insurance premiums, claim settlements and adjuster services;
  - d. Tax remittances, GST.HST Cost Recovery Reviews and WSIB Remittances;
  - e. Payment in Lieu of Property Tax remittances;
  - f. Charges to and from other government agencies;
  - g. Postage;
  - h. Advertising as required by the *Municipal Act*;
  - i. Retirement Recognition Awards;
  - j. Investment Management Services;
  - k. Employee Group Benefits, Compensation, Programs, Consulting and Reviews
  - l. Administrative services provided by the Administering Municipality as defined under a Service Level Agreement;
4. Licenses, certificates, permits and other approvals.
5. Ongoing maintenance and actions to maintain present functionality of existing computer hardware and software.
6. Professional and special services up to \$100,000, or defined more specifically in another Elgin by-law or Board Policy, including, but not limited to:

- a. Additional Non-recurring Accounting and Auditing Services;
- b. Public Debenture Sales;
- c. Realty Services for Lease, Acquisition, Demolition, Sale and Appraisal of Land and Property, including Appraisal and Consulting Services relating to matters of Expropriation;
- d. Printing and Mailing Services; and
- e. Integrity Commissioner Services

Professional and special services exceeding \$100,000 must follow the approval process outlined on [Schedule "A"](#)

- 7. Utilities - Water and Waste Water, Electricity, Electrical Inspection Services, Phone, Internet/Communications and Natural Gas
- 8. Urgent Facilities Maintenance/Repairs/Renovations as deemed appropriate by the Director of Regional Water with the concurrence of the Chief Administrative Officer.
- 9. Legal Services and Labour Relations Services as deemed appropriate by the Director of Regional Water, with the concurrence of the Chief Administrative Officer, up to \$ 250,000.
- 10. Services provided for Elgin construction projects within a railway right-of-way as required by the rail authority having jurisdiction.
- 11. Banking Services where covered by agreements and provided either directly by Elgin's contracted Banking Services provider as deemed appropriate by the Director of Regional Water with the concurrence of the Chief Administrative Officer, or by the Administering Municipality as authorized by the Service Level Agreement either directly or indirectly.
- 12. Lease, maintenance and repair of office space for Regional Water as deemed appropriate by the Director of Regional Water with the concurrence of the Chief Administrative Officer.

Note: the acquisition, lease, or sale/disposition of Elgin land (real property) is subject to Board approval.

- 13. Grant Funding, given or paid by Elgin as per Board approved Policies for Grants and/or agreements entered into by the Board. Grants not covered by these Policies or agreements must be approved by the Board.

14. Compensation paid to landowners in accordance with an applicable landowners agreement authorized by the Board, including but not limited to the Pipeline Operations and Maintenance Agreement.
15. The services of the accredited laboratory as required by the *Safe Drinking Water Act* and its regulations.
16. Disposal of material and equipment deemed to be obsolete and/or surplus and/or scrap and having a value of less than \$1,000.



## Schedule 'C' – Irregularities Contained in Bids

Irregularity	Response
1. Late bids.	Automatic rejection
2. Insufficient financial security (no bid deposit or insufficient bid deposit).	Automatic rejection
3. Failure to insert the name of the bonding company in the space provided for in the bid documents.	Automatic rejection
4. Failure to provide a letter of agreement to bond / letter of guarantee where required.	Automatic rejection
5. Incomplete, illegible or obscure bids, or bids which contain additions not called for, erasures, alterations, errors or irregularities of any kind.	May be rejected as informal – Mandatory Requirements must be met or Automatic rejection
6. Documents, in which all addenda have not been acknowledged.	Automatic rejection
7. Failure to attend mandatory site visit.	Automatic rejection
8. Bids received on documents other than those provided by Elgin.	Automatic rejection
9. Failure to insert the bidder's business name in one of the two spaces provided in the bid documents.	Automatic rejection
10. Conditions placed by the bidder on the total contract price.	Automatic rejection

Irregularity	Response
<p>11. Bids containing minor mathematical errors</p>	<p>a) If the amount bid for a unit price item does not agree with the extension of the estimated quantity and the bid unit price, or if the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly.</p> <p>b) If both the unit price and the total price are left blank, then both shall be considered as zero.</p> <p>c) If the unit price is left blank but a total price is shown for the item, the unit price shall be established by dividing the total price by the estimated quantity.</p> <p>d) If the total price is left blank for a lump sum item, it shall be considered as zero.</p> <p>e) If the bid documents contain an error in addition and/or subtraction and/or transcription in the approved competitive bid documentation format requested (i.e., not the additional supporting documentation supplied), the error shall be corrected, and the corrected total contract price shall govern.</p> <p>f) Bid documents containing prices which appear to be so unbalanced as to likely affect the interests of Elgin adversely may be rejected.</p>

## **Schedule 'D' – Statement of Ethics for Public Procurements**

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:

- 1. Open and Honest Dealings with Everyone who is Involved in the Purchasing Process.** This includes all businesses with which Elgin contracts or from which it purchases goods and/or services, as well as all Regional Water staff and agents who act on behalf of Elgin in the purchase of goods and/or services including the Administering Municipality as applicable.
- 2. Fair and Impartial Award Recommendations for All Contracts and Tenders.** This means that we do not extend preferential treatment to any supplier, including local companies. Not only is it against the law, but it is also not good business practice, since it limits fair and open competition for all potential suppliers and is therefore a detriment to obtaining the best possible value for each dollar.
- 3. An Irreproachable Standard of Personal Integrity on the Part of All Those Delegated as Purchasing Representatives** for Elgin. Absolutely no gifts or favours are accepted by the purchasing representatives return for business or the consideration of business. Also, the purchasing representatives do not publicly endorse one company in order to give that company an advantage over others.
- 4. Cooperation with Other Public Agencies in Order to Obtain the Best Possible Value for Every Tax Dollar.** Where appropriate, Elgin may participate in, either directly or through an agent, a cooperative purchasing group to pool expertise and resources in order to practice good Value Analysis and to purchase goods and/or services in volume and save tax dollars.