

**THE CORPORATION OF THE TOWNSHIP OF EAST LUTHER GRAND VALLEY**

**By-law Number 2004-53**

**A BY-LAW TO ESTABLISH POLICIES FOR THE PROCUREMENT OF GOODS AND SERVICES**

WHEREAS the Council of the Corporation of the Township of East Luther Grand Valley recognizing its responsibility for the effective utilization of all of its resources is desirous of codifying sound policies for the purpose of procuring goods and services in a manner congruent with its mandate to provide effective responsible government and efficient delivery of services to the residents of the Township of East Luther Grand Valley;

NOW THEREFORE BE IT ENACTED BY THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF EAST LUTHER GRAND VALLEY AS FOLLOWS:

**1. INTERPRETATION**

Definitions:

In this By-law,

"Bid Deposit" means currencies, certified cheques, bond surety issued by a surety company or other form of negotiable instrument;

"Chief Administrative Officer" means the Chief Administrative Officer for the Township of East Luther Grand Valley or his/her designate;

"Clerk" means the Clerk of the Corporation of the Township of East Luther Grand Valley;

"Contract" means any formal or deliberate written agreement for the purchase of goods, services, equipment or construction;

"Council" means the Council of the Corporation of the Township of East Luther Grand Valley;

"Township of East Luther Grand Valley" means the Corporation of the Township of East Luther Grand Valley;

"Goods and Services" include supplies, equipment, furniture, fixtures, insurance, employee benefits, construction, maintenance and services contracts, and professional and consulting services required by the Township of East Luther Grand Valley;

"Treasurer" means the Treasurer of the Corporation of the Township of East Luther Grand Valley or his or her designate;

"Department Supervisor" means a Department Supervisor of the Corporation of the Township of East Luther Grand Valley or his/her designate;

"Informal Bid" means a bid containing an omission or variation which does not adhere to the Instructions to Bidders and which may be cause to disqualify the bid;

"Labour and Materials Payment Bond" means a bond issued by a surety company to ensure that the contractor has paid his or her suppliers, which thereby protects the Corporation against items which might be granted to suppliers should the contractor not make proper payments;

"Performance Bond" means a bond issued by a surety company 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;

"Property" means supplies, equipment, furniture and fixtures, but shall not include real property;

"Proposal" means a sealed bid which contains an offer to perform a specified function or service or supply goods at a particular price where specifications may be difficult to define or are restrictive in nature;

"Purchase Order" means the numbered purchasing document used to formalize a purchasing transaction with a vendor;

"Quotation" means a sealed bid received as a result of a written or verbal request by the Township of East Luther Grand Valley for the supply of goods and services;

"Self-Managed Project" means a project that consists of new construction or capital renovations that are managed by Township of East Luther Grand Valley staff and are not put out to tender for a general contractor. Projects are designated as self-managed at the time they are approved.

## **2. APPLICATION**

- 2.1 The purchasing policies set out in this by-law shall govern all purchases of goods and services and the disposal of surplus goods.

## **3. MISSION**

- 3.1 The Corporation of the Township of East Luther Grand Valley will maintain an open and competitive process with respect to the purchase of goods and services and actively investigate new sources and methods of procurement for products and services to provide the most effective and efficient services.

#### **4. GOALS AND OBJECTIVES FOR DEPARTMENTS**

4.1 To direct their activities toward the corporate mission, the goals and objectives of all departments in the purchasing of goods and services are as follows:

- a. Establish clear objective specifications for all purchases.
- b. Identify potential sources for purchases.
- c. Recommend sole source justification in accordance with the policies.
- d. Select successful bidders and suppliers in accordance with this policy.
- e. Make recommendations to the Council with respect to the award of tenders as required by the policies and procedures.
- f. Designate persons authorized to approve expenditures and their expenditure limits within their departments.
- g. Review purchases upon delivery to ensure compliance with specifications.
- h. Comply with the approved purchasing policies and procedures of the corporation.

#### **5. PURCHASING PRINCIPLES**

5.1 The Purchasing principles of the Township of East Luther Grand Valley shall be as follows:

- a. To procure by purchase, rental or lease the required quality and quantity of goods and services, including professional and consulting services, in an efficient and cost effective manner;
- b. To encourage open competitive bidding on all acquisition and disposal of goods and services where practicable;
- c. To consider all costs, including acquisition, operating and disposal costs, in evaluating bid submissions from qualified, responsive and responsible vendors, rather than basing a decision solely on the lowest bid price;
- d. To give full consideration to the annual aggregate value or to consider the total project cost of specific goods and services that will be required by each Department as a whole prior to determining the appropriate acquisition method;

- e. To monitor and report on the economic climate and legislative changes which may have an impact on the Township of East Luther Grand Valley and to determine the appropriate actions to be taken through purchasing policies and procedures;
- f. To give consideration to local suppliers where practical and ALL other things being equal;
- g. To procure necessary goods and services with due regard to the preservation of the natural environment, to encourage vendors to supply goods made by a method resulting in the least damage to the environment and to encourage vendors to supply goods incorporating recycled materials where practicable; and
- h. To ensure compliance with all Health and Safety regulations.

**6. PURCHASING PROCEDURES**

6.1 Limitations

To ensure effective internal control and to promote efficient procurement of goods and services the following purchase limits shall be adhered to:

PURCHASE LIMITS	APPROVAL	PROCESS
Up to \$1,000	Department Supervisor	Obtain competitive pricing
\$1,001 to \$5,000	Department Supervisor	3 Written Quotes
\$5,001 to \$20,000	Council approval	3 Written Quotes
Over \$20,000	Council approval	Tender or Request for Proposal

All purchases by department heads must be within an approved budget or brought forward for Council consideration.

6.2 Authorization to Purchase

The Department Signing List controls signature authorization for all major financial transactions. Only persons officially designated on the Departmental Signing List shall have the authority to issue requisitions in conjunction within their spending limits. The Chief Administrative Officer or a Department Supervisor designates the person(s) within the department who are authorized to approve financial transactions on accounts attributed to the department. Requisitions may be initiated at any level but only List signers can authorize approval.

### 6.3 Petty Cash

Petty Cash is established to meet miscellaneous departmental expenses. The Treasurer approves the creation of petty cash funds and establishes reporting procedures for petty cash funds.

#### 6.3.1 Petty Cash Limits

The maximum dollar amount for any single disbursement from the Purchasing Petty Cash Fund is \$250.

#### 6.3.2 Petty Cash Disbursements

Disbursements from Petty Cash Funds must be properly documented and be for valid Township of East Luther Grand Valley business purposes. Receipts should include a description of the business purposes of the transaction, goods or services purchased and the date.

## 7. TENDERS

### 7.1 General

Each Department Supervisor shall comply with the process outlined below for purchases exceeding \$20,000 and where precise specifications can be prepared.

### 7.2 Tender Process:

- a. The Department Supervisor shall prepare specifications and criteria;
- b. The Treasury Department shall receive the bids until the deadline in the advertisement; bids shall be marked with the time and date upon receipt;
- c. The bids shall be opened in public with two Township staff members and at least one member of council in attendance;
- d. The Department Supervisor shall evaluate all the bids submitted;
- e. The Chief Administrative Officer shall be authorized to award a contract in respect of capital works after Council approval.
- f. If the Department Supervisor is not authorized to award the tender in accordance with paragraph (e) above then he or she shall prepare a report, to be submitted to Council, summarizing the bids and making recommendations.

g. If only one tender is received, then it will be brought forward to Council for consideration and direction.

### 7.3 Financing Reports on Tenders

With respect to all reports initiated for Tenders, the Treasury Department will provide the information on the sources of financing, allocation of revenue (and other financial commentary as considered appropriate) in the same report.

### 7.4 Advertising

The Department Supervisor shall advertise a request for tender in one or more of the following publications:

- Publications of local circulation
- Internet
- Inter-Provincial Trade Agreement, 1997

To be in compliance with the Inter-Provincial Trade Agreement 1997, all Construction Tenders over \$100,000.00 must be advertised on an approved electronic internet. The Council shall use (at this time) the Electronic Tendering Network (ETN) due to its reach and also since there is no cost for this service from this company.

## 8. REQUESTS FOR PROPOSAL

### 8.1 General

Each Department Supervisor shall comply with the process outlined below for purchases exceeding \$20,000 and where goods and/or services are required and it is not practical to prepare precise specifications which permit bids or readily comparable products, or when 'alternatives' to detailed specifications will be considered, a Request for Proposal may be issued as an alternative to Request for Tender or Quotation.

### 8.2 RFP Process:

- a. The Request for Proposals will be acquired through a selection process based on a detailed description of the project through the terms of reference. Awards of Requests for Proposal will be based on a list of evaluation criteria prepared by the Department Supervisor in advance;
- b. The Treasury Department shall receive the bids until the deadline in the advertisement;
- c. Bids received after the deadline will not be opened and will be returned to the bidder unopened or if the bidder cannot be identified on the outside of the envelope, the unopened Request for Proposal shall be retained on file for 90 days and then destroyed;

- d. The proposals shall be opened in public with at least two Township of East Luther Grand Valley Officials and one member of council in attendance and the names of the Proponents shall be disclosed and a written record of all proposals shall be prepared.
- e. The Department Supervisor shall evaluate all the proposals submitted and prepare a report, to be submitted to Committee and Council, summarizing the proposals and making recommendations.

## **9. LEASES/LEASE PURCHASE AND RENTAL AGREEMENTS**

### **9.1 General**

The policies governing the purchase of goods and services shall also apply to lease and rental agreements.

### **9.2 Lease and Rental Agreement Process**

Following the completion of the Tender or Request for Proposal process the following steps shall be taken prior to finalizing lease and or rental agreements:

- a. Prior to accepting Lease Agreements as submitted by the requisitioning department, the Treasury Department will analyze each one. An analysis will be made to determine the economic soundness of whether the goods should be leased or purchased in cooperation with the originating department. Some of the factors to be analyzed are:
  - i. Who retains title to the equipment at the end of the lease,
  - ii. Estimated value of the equipment at the end of the lease,
  - iii. Estimated life of the equipment at the end of the lease, and
  - iv. Estimated buy-out value at the end of the lease.
- b. The Legal Counsel for the Township of East Luther Grand Valley may be requested to review the terms and conditions of the lease document.
- c. The originating department shall fully describe the equipment to be leased and indicate the proposed term (number of years).

### **9.3 Authorizing Signatures**

Lease Purchases or Rental Agreements for the procurement of goods and services must be signed on behalf of Township of East Luther Grand Valley by the appropriate Department Supervisor or Clerk, and in the case of tenders or contracts approved by Council, they must also be signed by the Mayor and the Clerk.

## **10. PROFESSIONAL AND CONSULTING SERVICES**

### **10.1 General**

The selection and retention of consultants for projects shall be undertaken in accordance with the procedures in this section and shall be subject to all other procedures in this policy document including competitive pricing processes.

### **10.2 Objective**

The objective of these guidelines is to ensure that the process used in the selection of consultants represents the following principles and values:

- a. A consistent and uniform process for selecting consultants should apply throughout the Township of East Luther Grand Valley; there should be fair and equitable access by all qualified consultants to respective assignments;
- b. The selection process should be open and clearly documented;
- c. Consulting assignments should be awarded primarily on the basis of competence and expertise. Price should be included in the evaluation process as a measure of cost benefit but should be only one of a number of criteria used in assessing the proposals; and,
- d. The consultant selection process needs to be cost-effective with respect to staff, costs to administer it, and consultants' costs to prepare and submit proposals.

### **10.3 Approval Limits and Reporting**

A Department Supervisor in consultation with the CAO may approve award of a contract to a consultant for a contract that is a budgeted expenditure and does not exceed \$5,000 per annum. All such contracts shall be detailed in a report to Council at the next meeting. All other contracts shall require the approval of Council.

### **10.4 Consultant Selection Process**

#### **10.4.1 One Time Project and/or Assignment - Consultants for a Capital Project or Specific Study**

The following process shall govern the retention of consultants for a one time project or assignment:

- a. Department Supervisor shall develop requirements in Tender or Request for Proposal format as appropriate. Department Supervisors may structure the process to require the submission of technical criteria and fees in separate envelopes.



- b. The opportunity shall be advertised publicly through newspaper advertisements, the electronic tender network or other accepted means.
- c. A bidders meeting may be necessary to confirm requirements and the scope of the project.
- d. Proposals must be submitted in the tender or RFP envelope(s) provided.
- e. The proposals shall be opened in public with at least two Township of East Luther Grand Valley Officials and one member of council in attendance and the names of the proponents shall be disclosed and a written record of all proposals shall be prepared.
- f. The Department Supervisor shall evaluate quality and technical criteria. Fees, if requested separately, shall be evaluated only after qualified firms have been identified.
- g. The Department Supervisor shall complete an overall assessment of both technical criteria and fees, weighing each appropriately.
- h. The contract shall be awarded by the Department Supervisor or Chief Administrative Officer in accordance with paragraph 10.3 above, to the consultant(s) with the best combined technical criteria and lowest price.
- h. If the Department Supervisor or Chief Administrative Officer is not authorized to award the contract in accordance with paragraph 10.3 above then he or she shall prepare a report, to be submitted to either the Committee of Council or the Council, summarizing the proposals and making recommendations.

#### 10.4.2 Repetitive Projects and/or Assignments - Consultants for Continuous Service

The following process shall govern the retention of consultants to provide services to the Township of East Luther Grand Valley on an ongoing basis, or on a long term multiple basis, for periods not to exceed three years:

- a. Department Supervisor shall develop requirements and analyze the long-term benefit of engaging a consultant or professional on a long-term basis.
- b. Expressions of Interest shall be requested through advertisements and/or correspondence to firms who have had prior related experience with the Township of East Luther Grand Valley.
- c. Expressions of interest are evaluated based on broad criteria established by the user department. The broad criteria may vary from project to project but should encompass an assessment of the following factors related to the firm being evaluated:

- i. experience and performance on similar projects,
  - ii. knowledge of locality,
  - iii. professional reputation and integrity,
  - iv. stability and reputation of firm,
  - v. multi-disciplinary/specialty capabilities, and
  - vi. quality assurance system.
- d. A short-list of three to six firms shall be generated from the companies receiving the top scores from the broad criteria evaluation process.
  - e. Requests for detailed proposals shall be made to the short-listed companies. Meetings will be held, if required, to confirm the scope of the project.
  - f. Proposals must be submitted in the tender or RFP envelope(s) provided.
  - f. The proposals shall be opened in public with at least two Township of East Luther Grand Valley Officials and one member of council in attendance and the names of the proponents shall be disclosed and a written record of all proposals shall be prepared.
  - g. The Department Supervisor shall evaluate quality and technical criteria. Fees, if requested separately, shall be evaluated only after qualified firms have been identified.
  - h. The Department Supervisor shall complete an overall assessment of both technical Criteria and fees, weighing each appropriately.
  - i. The contract shall be awarded by the Department Supervisor or Chief Administrative Officer in accordance with paragraph 10.3 above, to the consultant(s) with the best combined technical criteria and lowest price.
  - j. If the Department Supervisor or Chief Administrative Officer is not authorized to award the contract in accordance with paragraph 10.3 above then he or she shall prepare a report, to be submitted to Committee of Council or the Council, summarizing the proposals and making recommendations

---

#### 10.5 Time Limits for Repetitive Projects and/or Assignment

When a Department Supervisor proposes to retain the services of a consultant for a period longer than three years, the report submitted to Council recommending the appointment of the consultant must also request an exemption from the terms of this policy and outline the reasons for the exemption.

## **11. SOLE SOURCE PROCUREMENT AND JUSTIFICATION**

### **11.1 General**

The procurement of materials, parts, supplies, equipment or services without competition, is done under exceptional and limited circumstances.

### **11.2 Conditions Required for Sole Source Purchasing**

The following conditions may result in the necessity to engage in sole source purchasing:

- a. When the expertise of an individual organization or individual is deemed to be specifically required by the municipality.
- b. When competition is precluded because of the existence of patent rights, copyrights, secret processes, control of raw material or other such conditions.
- c. When the procurement is for electric power or energy, gas, water or other utility services where it would not be practical to allow a contractor other than the utility company itself to work upon the system.
- d. When the procurement is for technical services in connection with the assembly, installation or servicing of equipment of a highly technical or specialized nature.
- e. When the procurement is for parts or components to be used as replacements in support of equipment specifically designed by the manufacturer.
- f. When the contractor is already at work on the site (based on an existing Purchase Order) and it would not be practical to engage another contractor.

### **11.3 Process for Sole Source Purchasing**

The following process shall be followed prior to initiating a sole source purchase:

- a. Sole source items require detailed documentation from the requisitioning department to justify their purchase and to ensure that the cost charged by the vendor is reasonable.
- b. A Sole Source Justification letter must accompany the requisition in accordance with the following approval limits:

PURCHASE LIMITS	APPROVAL
-----------------	----------

U to \$2,000	Department Supervisor
\$2,001 to \$5,000	Department Supervisor and Treasurer
Over \$5,001	Council

**12. PURCHASING IN EMERGENCIES**

12.1 Emergency Conditions

Emergency includes:

1. An imminent or actual danger to the life, health or safety of an official or an employee while acting on the Township of East Luther Grand Valley's behalf,
2. An imminent or actual danger of injury to or destruction of real or personal property belonging to the Township of East Luther Grand Valley,
3. An unexpected interruption of an essential public service,
4. An emergency as defined by the Emergency Plans Act, R.S.O. 1990, c. E.9, and the emergency plan formulated thereunder by the Township of East Luther Grand Valley; and
5. A spill of a pollutant as contemplated by Part X of the Environmental Protection Act.

12.2 Process for Emergency Purchases

Where, in the opinion of the Chief Administrative Officer or a Department Supervisor acting reasonably, an emergency occurs:

- a. The Treasurer on receipt of a requisition authorized by a Department Supervisor and the Chief Administrative Officer may initiate a purchase in excess of the pre-authorized expenditure limit; and
- b. Any purchase issued under such conditions together with a source of funding provided by the Treasurer shall be justified and reported to the next meeting of Township of East Luther Grand Valley Council following the date of the requisition.

### **13. GENERAL**

#### **13.1 Split Requisitions**

The submission of split requisitions in an attempt to circumvent this policy is not allowed.

#### **13.2 Bid Sureties**

Security is not required on the majority of purchases made by the Township of East Luther Grand Valley. If security is required, the specific conditions contained in the bid invitation will indicate the kind and amount. When a bid deposit is required, a bid will not be accepted without it. The principal types of security that may be required are as follows:

##### **a. Bid Deposit**

A bid bond signed by a surety company licensed to do business in the Province of Ontario, Certified Cheque, and Postal Money Order, drawn on a responsible bank doing business in Canada. Personal or company cheques are not acceptable. The deposit must be made payable to the Township of East Luther Grand Valley, in the amount specified in the bid package and enclosed with the bid. The bid deposit will be forfeited to the Township of East Luther Grand Valley should the successful bidder fail to accept the award. Bid deposits are returned to the unsuccessful bidders promptly after the award and acceptance by the successful bidder.

##### **b. Performance Surety**

A Performance Bond and a Labour and Materials Payment Bond in the amount specified in the bid invitation is required only from the successful bidder. Performance bonds are retained by the Township of East Luther Grand Valley until all items, equipment and/or services specified in the contract or purchase order have been completed to the satisfaction of the Township of East Luther Grand Valley. The Performance Bond will be forfeited to the Township of East Luther Grand Valley should the successful bidder fail to comply with the terms and conditions as set forth in the specifications and award.

##### **c. Letter of Credit**

A Letter of Credit in the amount of the value of the contract may be required from the successful bidder depending upon the requirements of the contract. The Township of East Luther Grand Valley will stipulate the form of the letter of credit.

### 13.3 Insurance

Whenever a purchase order or contract requires the vendor to perform an installation, repair, or service on Township of East Luther Grand Valley property, it will be necessary for the vendor to provide, on a Township of East Luther Grand Valley form, an insurance certificate evidencing insurance coverage as may be required, and naming the Township of East Luther Grand Valley as an additional insured. Prior to commencement of any work or services being performed, the appropriate insurance coverage must be submitted to the Township of East Luther Grand Valley.

### 13.4 Confidentiality of Bids/Quotations/Proposals

All records and information pertaining to tenders, proposals and other sealed bids, which reveal a trade secret or scientific, technical, commercial, financial or other labour relations information, supplied in confidence implicitly or explicitly, shall remain confidential. All information received by the municipality is subject to the Municipal Freedom of Information and Protection of Privacy Act.

### 13.5 Errors in Bids/Quotations/Proposals

Vendors are responsible for the accuracy of their quoted prices; in the event of an error between a unit price and its extension, the unit price will govern. Quotations may be amended or withdrawn by the bidder in writing up "to closing date and time" by the signing officer of that company.

### 13.6 Bidders List of Sub-Contractors

All bidders may be requested to supply a list of all sub-contractors to be employed on a project. Any changes to the list of sub-contractors, or additions thereto, must be approved by the Department Head responsible for the project.

## 14. DISPOSAL OF OBSOLETE, DAMAGED OR SURPLUS PROPERTY

### 14.1 General

It shall be the responsibility of Departments and the Chief Administrative Officer to identify and dispose of obsolete, damaged or surplus property in a timely manner.

### 14.2 Process for Disposal

The following process shall be used to dispose of obsolete, damaged, or surplus property:

- a. Each Department Head shall submit to the Treasurer semi-annually or on request by the Treasurer, a list of property which is obsolete, damaged or surplus to that department's needs.

- b. All obsolete, damaged or surplus property shall first be offered to other departments within the Township of East Luther Grand Valley.
- c. Where obsolete, damaged or surplus property is offered to but not required by any Township of East Luther Grand Valley department, it shall be disposed of by means of public auction or advertised for public tender and sold to the highest bidder.
- d. Where property has been declared obsolete, damaged or surplus by the Department Head and offered to other departments within the Township of East Luther Grand Valley, and is determined by the Treasurer to have little or no value, the Treasurer may dispose of such property in the most appropriate manner.

**14.3 Reporting**

The Treasurer shall report to Council annually on the property disposed of pursuant to this section.

**14.4 Disposal of Non-Township of East Luther Grand Valley Property**

The disposal of property supplied by other authorities who retain title to such property shall be subject to policies governing such authority.

**15. CONFLICTS OF INTEREST**

Acquisitions from a business in which a Township of East Luther Grand Valley employee or Member of Council, or family member have an interest, is prohibited unless full disclosure of the background facts are presented in writing to the appropriate Department Head and the Chief Administrative Officer.

**16. PERSONAL PURCHASES BY OFFICIALS OR EMPLOYEES**

- 16.1 No personal purchases made by an employee or official shall be included on any invoice to the Township of East Luther Grand Valley or Dufferin regardless of whether the employee reimburses the municipality for the cost.

---

**17. PAYMENT OF ACCOUNTS**

**17.1 Treasurer Authorization**

Except as otherwise provided, the Treasurer is authorized to pay:

- a. All accounts for the purchase of goods and services, where the purchase of such goods and services has been made in accordance with this by-law, or otherwise approved by Council;

- b. All accounts authorized by payment certificate, for works done under a contract approved by Council, where said payments have been certified in writing by the Department Head.
- c. All items in Schedule A subject to such expenditures being approved in the annual budget and by the respective Department Head;
- c. All requisitions for monies which the Township of East Luther Grand Valley is by statute required to pay to its local boards or other bodies on account of their approved annual estimates, including advances before such budgets are approved;

17.2 Budgetary Limits

Before being authorized for payment by the Treasurer, any account, the payment of which will exceed the total funds authorized by Council for the expenditure to which the account is applicable, shall require further authorization by Council.

**18. REPORTING REQUIREMENTS**

18.1 The Treasurer shall:

Upon approval by Council of the annual budget, provide quarterly (excluding the first quarter) reports summarizing and comparing the year to date approved budget to actual year to date expenditures for each operating department.

READ a first, second and third time and finally passed this 28th day of June, 2004.

  
MAYOR

  
CLERK