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CM: March 6, 2025; March 26, 2025; and August 6, 2025

Bill No. 181

CITY OF HAMILTON

BY-LAW NO. 25-181

To Amend By-law No. 20-205, Being A By-law to Adopt and Maintain a Procurement Policy for the City of Hamilton

WHEREAS paragraph 270(1)3 of the *Municipal Act*, 2001, S.O. 2001, c. 25 provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services;

AND WHEREAS Council enacted By-law 20-205 to Adopt and Maintain a Procurement Policy for the City of Hamilton;

AND WHEREAS it is necessary to amend By-law No. 20-205.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That By-law No. 20-205, be amended to reflect the following amendments to Schedule "A":
 - (a) by adding the following definitions to Definitions and Interpretation – Section 3, to read as follows:
 - (i) **“Associated Cybersecurity Event Goods and/or Services”** shall mean Goods and/or Services that are required as a direct impact of the Cybersecurity Event and are required for resiliency and transformational operations to ‘build back better’. Associated Cybersecurity Event Goods and/or Services may include, but not limited to, professional services, IT hardware, software, and licenses.
 - (ii) **“Cybersecurity Event”** shall mean the cybersecurity incident experienced by the City of Hamilton on February 25, 2024.
 - (iii) **“Cybersecurity Event Goods and/or Services”** shall mean Goods and/or Services that are required as a direct impact of the Cybersecurity Event and are:
 - a) Infrastructure and services that have been impacted by the Cybersecurity Event;
 - b) required to maintain service continuity;
 - c) time sensitive; or
 - d) required for recovery and restoration efforts.

Cybersecurity Event Goods and/or Services may include professional services, IT hardware, software, and licenses.

- (b) by amending the following definition in Definitions and Interpretation – Section 3, to read as follows
 - (i) **“Procurement Procedures and Guidelines”** means the procurement procedures and guidelines approved by the City’s Director of Procurement, as amended from time to time.
- (c) by amending the following sections, as follows:
 - (i) Policy # 5.2 – Request for Quotations - Section 4.5.2:
 - (a) by increasing the upset dollar threshold from \$100,000 to \$133,800 for goods and/or services and from \$100,000 to \$334,400 for construction work;
 - (ii) Policy # 5.3 – Request for Tenders – Section 4.5.3:
 - (a) by increasing the minimum dollar threshold from \$100,000 to \$133,800 for goods and/or services and from \$100,000 to \$334,400 for construction work;
 - (iii) Policy # 5.4(a) – Request for Proposals (up to but no including \$133,800) for Cybersecurity Event Goods and/or Services and Transformational Goods and/or Services – Section 4.5.4(a):
 - (a) amending subsection (2) to read as follows:
 - (2) For procurements where there are no applicable City Contracts and for the period up until December 31, 2026, a Request for Proposals process may be used to procure a Cybersecurity Event Goods and/or Services and/or an Associated Cybersecurity Event Goods and/or Services with an estimated procurement value of between \$10,000 and up to but not including \$133,800 in the following manner:
 - (a) prior to the Request for Proposals being issued, the Client Department shall obtain the prior written approval of the Chief Information Officer and the Director of Procurement;
 - (b) a minimum of three different vendors shall be invited to submit a Bid by any method of written communication unless otherwise approved by the Procurement Division;
 - (c) the Request for Proposals process must be implemented through Centralized Procurement;

- (d) the Request for Proposals shall be issued and awarded in accordance with the RFP procedures as determined by the City's Director of Procurement;
- (e) the Request for Proposals shall clearly set out the evaluation criteria and weightings upon which an award of the Request for Proposals may be made. Subject to minor variations as may be approved by the Manager of Procurement, the evaluation methodologies that may be employed, are:
 - (i) **FIXED PRICE** - The City establishes a fixed dollar value for the award, and the Bids consist of only a technical Bid for that fixed dollar value. The City evaluates the technical Bids received against the evaluation criteria and weightings set out in the RFP. The award shall be made to the highest scoring vendor; or
 - (ii) **PRICE PER POINT** - The evaluation of the RFP will utilize a multi-step evaluation process. The City evaluates the technical Bids received against the evaluation criteria and weightings set out in the RFP. For those technical Bids that successfully meet the benchmark score stipulated in RFP, the City will open the price Bid received. The City will then calculate the price per point for each Bid meeting the technical benchmark score and the award will be made to the vendor with the lowest price per point; or
 - (iii) **COMBINATION OF TECHNICAL AND PRICE SCORES** - The RFP will utilize a multi-step evaluation process. The City evaluates the technical Bids received against the evaluation criteria and weightings set out in the RFP. For those technical Bids that successfully meet the benchmark score stipulated in RFP, the City will open the price Bid received and score the price based on a predetermined calculation set out in the RFP. The price weighting must be a minimum of 25 percent of the technical weighting. Only the General Manager of the Client

Department may approve a price weighting of less than 25 percent of the technical weighting. A total evaluation score will be determined by adding the technical score and the price score. The award shall be made to the highest scoring vendor; or

(iv) **LOWEST PRICED BID MEETING TECHNICAL BENCHMARK SCORE -**

The RFP will utilize a multi-step evaluation process. The City evaluates the technical Bids received against the evaluation criteria and weightings set out in the RFP. For those technical Bids that successfully meet the benchmark score stipulated in the RFP, the City will open the price Bid received. The award shall be made to the vendor who has successfully met the technical benchmark score and has the lowest priced Bid.

Where the RFP requires multiple vendors or a roster of vendors, the award shall be made consistent with the evaluation methodology stated above. The number of vendors to be awarded and the manner in which they shall be selected shall be clearly set out in the RFP.

Where an evaluation methodology other than the above is proposed, specific prior written approval shall be obtained from the Director of Procurement.

(b) amending subsection (6)(b) to read as follows:

(b) where time does not permit the re-issuance of the Request for Proposals in the opinion of the General Manager of the Client Department, the Request for Proposals is not otherwise being revised, and where there is a minor deficiency or non-compliance with a vendor's proposal submission (the determination of a "minor deficiency or non-compliance" shall be made by the Procurement Director in consultation with the City Solicitor or designate), the Procurement Division will:

(i) communicate to each of these vendors any Bid deficiencies that resulted in its Bid being deemed non-compliant; and

- (ii) all vendors shall be given the opportunity to make modifications to their Bid to achieve an acceptable Bid provided that such changes are not material in nature and will not alter the general nature of the requirement described in the Request for Proposals.
- (d) amending subsection (9) to read as follows:
 - (9) Except where another process is approved by the Director of Procurement, the Goods and/or Services shall be procured through a Purchase Order and/or Contract process. Where a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor.
- (iv) Policy # 7 – Construction Contracts – Section 4.7:
 - (a) increasing the Request for Tenders minimum dollar threshold for construction from \$100,000 to \$334,400;
- (v) Policy # 11 – Non-competitive Procurements – Section 4.11:
 - (a) amending subsection (3) to read as follows:
 - (3) That for the period up until December 31, 2026:
 - (a) the City Manager shall have the authority to approve and execute a Contract, all necessary associated documents and any amendment to a Contract on behalf of the City for a single source procurement for Cybersecurity Event Goods and/or Services and/or for Associated Cybersecurity Event Goods and/or Services up to the cumulative value less than \$1,000,000;
 - (b) any single source procurement for Cybersecurity Event Goods and/or Services and/or for Associated Cybersecurity Event Goods and/or Services with the cumulative value greater than \$1,000,000 shall require Council approval.

- (c) amending subsection (4), to include the following in the table:

TOTAL CUMULATIVE VALUE (\$, Canadian, Not including tax)	APPROVAL TO INITIATE POLICY # 11 PROCESS	APPROVAL TO ENTER INTO CONTRACT
Up to but not including \$1,000,000 for a single source purchase for Cybersecurity Event Good and/or Service or Associated Cybersecurity Event Goods and/or Services	City Manager	City Manager
Over \$1,000,000 for a single source purchase Cybersecurity Event Good and/or Service or Associated Cybersecurity Event Goods and/or Services	Council	Council

- (d) amending subsection (5) to read as follows:

- (5) The Goods and/or Services shall be procured through a Purchase Order, a formal Contract or any other process as approved by the Director of Procurement.

- (vi) Attaching Schedule C to By-law 20-205 (attached to this by-law)

2. This By-law comes into force and takes effect on the day it is passed.

PASSED and ENACTED this 8th day of October, 2025.

Andrea Horwath
Mayor

Matthew Trennum
City Clerk

SCHEDULE C – Provisions in Response to Tariffs

This Schedule applies to and amends the following sections of the City's Procurement Policy:

- Definitions and Interpretation – Section 3
- Policy #5.2 – Request for Quotations – Section 4.5.2
- Policy #5.3 – Request for Tenders – Section 4.5.3
- Policy #5.4 – Request for Proposals – Section 4.5.4
- Policy #5.4(a) – Request for Proposals (up to but no including \$133,800) for Cybersecurity Event Goods and/or Services and Transformational Goods and/or Services – Section 4.5.4(a)
- Policy #11 – Non-competitive Procurements – Section 4.11
- Policy #14 – Standardization – Section 4.14

In the event of any conflict or inconsistency between this Schedule and the Procurement Policy, the provisions of this Schedule shall prevail to the extent of the conflict or inconsistency.

This Schedule is effective as of August 6, 2025 and shall remain in effect until December 31, 2026, unless otherwise amended or repealed in accordance with the following provisions:

- a) The City Manager, in consultation with the Director of Procurement, may amend or repeal this Schedule at any time; and
- b) Any amendment or repeal shall take effect on the business day following approval by the City Manager.

Definitions and Interpretation – Section 3

The following definitions are added to Definitions and Interpretation - Section 3:

“Canadian Business” is a vendor (including a supplier, manufacturer, or distributor) of any business that provides Goods and/or Services on a permanent basis in Canada.

The business:

- has Permanent Offices or production facilities in any province or territory within Canada; or
- has at least 70% of its workforce employed in Canada as of the bid closing date or contract award date, whichever comes first.

“U.S. Business” is a vendor (including a supplier, manufacturer, or distributor) of any business that provides Goods and/or Services on a permanent basis in the United States of America (“USA”). The business:

- has Permanent Offices or production facilities any state or territory within the USA; and
- has at least 51% of its workforce employed in the USA as of the bid closing date or contract award date, whichever comes first.

“Non-U.S. Business” is a vendor (including a supplier, manufacturer or distributor of any business that does not meet the criteria of a U.S. Business or a Canadian Business.

“Permanent Office” is a fixed, physical place of business where business activities are conducted. Post office boxes, rental mailboxes, virtual offices, and home offices occupied by an employee will not be considered a fixed place of business.

“Operational Necessity” refers to circumstances where acquiring specific Goods and/or Services from a particular vendor is essential to maintaining continuity of critical City operations, ensuring compliance with legal or technical requirements, required to maintain an equipment’s warranty or avoiding undue disruption to public services.

Policy 5.2 – Request for Quotations - Section 4.5.2 is amended as follows:

- Delete subsection 3(g).
- Add subsection (10) with the following:
 - “(10) The Request for Quotations “RFQ” shall be awarded to the:
 - a) lowest compliant bid submitted by a Canadian Business or Non-U.S. Business; or
 - b) lowest compliant bid submitted by a U.S. Business where:
 - i) no bids are received from a Canadian Business or Non-U.S. Business, and
 - ii) the Client Department can demonstrate that reasonable efforts were made to invite Canadian Businesses and Non-U.S. Businesses, and that procurement from a U.S. Business is required as an exception for one or more of the following reasons:
 - i) risk to health or safety of residents, staff or environment;
 - ii) to ensure Operational Necessity; or
 - iii) is demonstrably in the City’s best interest.

Exceptions shall be approved by the City Manager, in consultation with the Director of Procurement.”

Policy #5.3 – Request for Tenders – Section 4.5.3 is amended as follows:

- Delete the following sentence from subsection 3(c):
“the Request for Tenders shall be awarded based on the Lowest Compliant Bid.”
- Add the following sentence:
“the Request for Tenders shall be awarded in accordance with subsection (8).”
- Add subsection (8) with the following:
“(8) The Request for Tenders “RFT” shall be awarded to the lowest compliant bid submitted by:
 - a) Canadian Business or Non-U.S. Business, or
 - b) U.S. Business, where the U.S. Business’ bid is at least 25% lower in price than the lowest compliant bid submitted by a Canadian Business or Non-U.S. Business.”

Policy #5.4 – Request for Proposals – Section 4.5.4 is amended as follows:

- At the end of subsection 2(d), add the following:
“The Request for Proposals “RFP” shall include separate evaluation criteria, up to 25% of the total evaluation score, awarding full points to Canadian Business and Non-U.S. Businesses, and zero points to U.S. Businesses.”

Policy #5.4(a) – Request for Proposals (up to but no including \$133,800) for Cybersecurity Event Goods and/or Services and Transformational Goods and/or Services – Section 4.5.4(a) is amended as follows:

- At the end of subsection 2(e), add the following:
“The Request for Proposals “RFP” shall include separate evaluation criteria, up to 25% of the total evaluation score, awarding full points to Canadian Business and Non-U.S. Businesses, and zero points to U.S. Businesses.”

Policy #11 – Non-competitive Procurements – Section 4.11 is amended as follows:

- Add subsection 2(c) with the following:
“2(c) a single source as set out in subsection (1)(b) of this Policy #11, when procuring from a U.S. Business where the Client Department can demonstrate the following:
 - a) reasonable efforts were made to identify Canadian Businesses and Non-U.S. Businesses; and

- b) procurement from a U.S. Business is required for one or more of the following reasons:
 - i) risk to health or safety of residents, staff or environment;
 - ii) to ensure Operational Necessity; or
 - iii) is demonstrably in the City's best interest.

Subject to satisfying one or more of the above reasons, any request to procure from a U.S. Business for a Policy #11 – Non-competitive Procurement shall require Council approval.”

Policy #14 – Standardization – Section 4.14 is amended by adding subsection 8 as follows:

- Add subsection (6) with the following:
 - “(6) Notwithstanding subsection (5), a Policy #14 – Standardization with a U.S. Business shall only be permitted where the Client Department can demonstrate the following:
 - a) reasonable efforts were made to identify Canadian Businesses and Non-U.S. Businesses; and
 - b) procurement from a U.S. Business is required for one or more of the following reasons:
 - i) risk to health or safety of residents, staff or environment;
 - ii) to ensure Operational Necessity; or
 - iii) is demonstrably in the City's best interest.

Subject to satisfying one or more of the above reasons, any request to procure from a U.S. Business for a Policy #14 – Standardization Procurement shall require Council approval.”