

**REPORT TITLE: Emergency Procurement of Goods and Services**

**FROM: Gary Kent, CPA, CGA, ICD.D, Chief Financial Officer and Commissioner of Corporate Services**

---

## **RECOMMENDATION**

**That the proposed amendments to the Procurement By-law 30-2018, as outlined in the report of the Chief Financial Officer and Commissioner of Corporate Services, listed on the March 10, 2022 Regional Council agenda titled “Emergency Procurement of Goods and Services” be approved;**

**And further, that the necessary by-law to amend the Procurement By-law 30-2018, as amended, be presented for enactment.**

## **REPORT HIGHLIGHTS**

- The COVID-19 pandemic has had an unprecedented impact on the Region of Peel’s health, social welfare and economy.
  - The Region’s emergency procurement needs have fluctuated with the various waves of the pandemic, including goods and services required for mass vaccination efforts and continued emergency response for Regional programs.
  - Procurement and program staff continue to work in parallel to assess emergency procurement requirements, those directly attributable to the COVID-19 response, and seek opportunities to secure new competitive contracts where feasible. Overall, emergency procurement activity has trended downward since the beginning of 2021.
  - On May 14, 2020 and January 14, 2021, Regional Council was provided with an overview and update on the procurement response during the COVID-19 pandemic, including the critical need for purchases of goods and services related to COVID-19, the need for procurement flexibility throughout the duration of an extended period of emergency, and changes to the emergency procurement procedure as presented to the Regional Policy Group (RPG) and Regional Emergency Operations Centre (REOC) during the early stages of the pandemic.
  - Amendments to update the Procurement By-law 30-2018 are recommended, based on lessons learned from the unprecedented and prolonged COVID-19 emergency and the emergency procedures implemented throughout the course of the declared state of emergency, as previously reported to Regional Council, to ensure the required staff authority to respond fully during an emergency.
  - Consistent with the Region’s regular five-year review process, a comprehensive review of the Procurement By-law is scheduled to occur over the coming 12-month period, with a new by-law to be brought forward to Council in 2023.
-

## Emergency Procurement of Goods and Services

### DISCUSSION

#### 1. Background

As the direct impacts of the pandemic subside, Procurement continues to balance the risks to the organization by adapting processes and procedures to ensure a level of spend control throughout this period of market instability and uncertainty, while ensuring urgent emergency response is prioritized. Sourcing strategies utilized to respond to the procurement needs of the Region during COVID-19 have been diverse, considering market conditions and supply chains, urgency, and value to the Region.

A prolonged period of emergency, such as COVID-19, has demonstrated the need for both immediate and extended emergency procurement support. During COVID-19, the length of the declared emergency has led to priority shifts, supply and demand changes, and challenges with delivery and quality of goods available.

On May 14, 2020 and January 14, 2021, Regional Council was provided with an overview and update on the procurement of goods and services related to COVID-19 and was advised of a new emergency procurement procedure that would provide the required flexibility throughout the duration of an extended period of emergency. As stated in the January 14, 2021 report to Council titled "Procurement Response to COVID-19", the updated emergency procurement procedure which was put into place in order to effectively respond to the pandemic included the addition of approvals from Program Directors and Commissioners, based on emergency spend, to ensure alignment with the Regional emergency response to COVID-19 and the recommendations received from the Regional Policy Group (RPG) and Regional Emergency Operations Centre (REOC). The enhancements to the emergency procurement procedure in May 2020 took into consideration what is reasonable and justifiable given all the facts and circumstances of an emergency event or situation, with the inclusion of a more formalized approval process to introduce a level of spend control in a time of market instability and extended uncertainty. It is appropriate that these changes that were implemented through the emergency procedure now be incorporated into the by-law.

In addressing the emergency response, it was noted that the current definition of "emergency" in the Procurement By-law 30-2018 does not include any reference to a declared emergency, such as that underpinning the current unprecedented global pandemic and evolving emergency response. It was also noted that, while the by-law clearly identified an emergency as the basis for which a direct negotiation is permitted, it did not clearly identify the specific staff authorized as approval authorities. Lessons learned throughout this period of emergency have identified these and other gaps in the Procurement By-law and the corresponding need to enhance it to reflect the implemented processes from the emergency procurement procedure for the direct acquisition of goods and/or services necessitated by the declaration of emergency, and to more clearly outline the staff authority and approvals required to ensure the ability to respond fully to procurement needs during an emergency.

As such, staff are recommending amendments to the Procurement By-law that align with the emergency procurement procedures introduced during the pandemic, including updating the definition of "emergency" to include a period of time during which an emergency has been declared to exist in all or part of the Region pursuant to the *Emergency Management and Civil Protection Act*.

## Emergency Procurement of Goods and Services

In order to best accommodate the immediate response required for supporting the purchase of goods and services related to an emergency, staff are also recommending the inclusion of additional provisions in the Procurement By-law that clearly outline the staff authority and approvals necessary to source and procure goods and services required as a result of an emergency, which may include during a period of a declared emergency, which would not reasonably permit the use of a competitive procurement process. To align with the emergency procurement procedures adopted over the course of the pandemic, emergency purchases up to \$100,000 would require the joint approval of the Director of Procurement and Program Director, and those above this dollar value would require the joint approval of the Chief Financial Officer and Department Head. Staff recommend that the new sections to address emergency procurements and corresponding approval authorities be added to the Procurement By-law, as outlined in Appendix I to the subject report, consistent with the emergency procurement procedures adopted during the pandemic.

### 2. Procurement During COVID-19 and Moving Forward

Over the course of the unprecedented COVID-19 pandemic, Regional procurement has been conducted in a manner that seeks to effectively consider both the value for money and the need for urgent response to remedy an immediate risk to the Region and its residents, as well as the need to proactively support Regional programs in addressing impending situations that constitute a danger or potential harm to persons or property.

Although some impacts to Regional business from COVID-19 still linger, Procurement continues to collaborate with programs to move beyond the use of emergency procurements where possible and identify opportunities where it is in the best interest of the Region to procure goods and services through a competitive procurement process.

In this regard, over the course of 2021, the total spend and frequency of emergency procurements directly related to the COVID-19 response have trended downward. From the initial months of 2021 where emergency procurements to support the Province and the Region's mass vaccination efforts were at their peak, to the end of 2021, both the number of COVID-19 emergency procurements and the associated total emergency spend have seen a reduction of over 90 per cent. It is expected that this trend away from the use of emergency procurements related to COVID-19 will continue in 2022 as business needs and market conditions stabilize, and Procurement staff continue to promote the effective use of funds through procurement methods and decisions that achieve best value for money. Detailed regular reporting of emergency and other procurement activity is provided to Council through the triannual procurement activity reports. The next such report will appear on the March 24, 2022 Regional Council agenda.

The *Municipal Act, 2001*, as amended, mandates that municipalities have formal policies that govern the procurement of goods and services, and that these policies be reviewed regularly. Lessons learned during the COVID-19 pandemic provide an ideal opportunity to review and update the Region's Procurement By-law as it relates to emergency procurement procedures. Consistent with the Region's regular five-year review process, staff will be undertaking a comprehensive review of the Procurement By-law over the upcoming 12-month period, with the intention of bringing forward further enhancements that reflect emerging public procurement trends and industry best practices, and that continue to embody the guiding principles of integrity, fairness, openness and transparency.

## **Emergency Procurement of Goods and Services**

### **CONCLUSION**

It is critical that the emergency procurement of goods and services required to serve the business needs of the Region is conducted with the flexibility to purchase expeditiously and directly from a supplier if the delay involved in conducting a routine procurement process could prevent the delivery of goods and services in time to bring effective and immediate relief.

The Region's Procurement response to emergencies, both immediate and prolonged, has evolved over the course of the pandemic, and the lessons learned captured in the emergency procedure and By-law amendments proposed in this report will ensure Procurement is well positioned to provide continued support to Regional programs throughout the current stage of the COVID-19 pandemic, and thereafter.

### **APPENDICES**

Appendix I – Proposed Amendments to the Procurement By-law 30-2018 – Emergency Procurements

---

*Authored By: Patrick Thompson, Supervisor, Procurement*