

**Can City Employees Bid on City Contracts?**

**A Comparison of Procurement/Purchasing Policies or By-laws From Various Medium-Large Ontario Municipalities or Regions**

**Governance Sub Committee Motion:** *That staff be directed to review the City's policies around City employees who are also business owners bidding on City Contracts and report back to the Governance Review Sub-Committee in the new term of Council.*

Summary:

Aside from the City of Hamilton:

- 5 cities/regions **do permit** City employees to bid on City contracts **under certain conditions** (e.g., a disclosure form must be submitted, the City employee cannot be involved in the procurement process, approval is needed by Council, Legal Service, Procurement, Department Head, etc.).
- 8 cities/regions **do not permit** City employees to bid on City contracts **unless certain conditions are met** (e.g., submission of disclosure form, approval by CAO, Council, Legal Services, or Procurement Division).
- 5 cities/regions **do not permit** City employees to bid on City contracts.

City/Region	Can City Employees Bid on City Contracts?	Summary of Policy/By-law Provisions
HAMILTON	<p>NO</p> <p>Unless approved by Council and the employee declares a conflict of interest.</p> <p>The policy does not state what the next steps might be following the declaration.</p>	<p><b><u>Procurement Policy</u></b>  <b><u>Responsibilities &amp; Prohibitions of Procuring Goods and/or Services</u></b>  <b>Section 2 (6) Prohibitions.</b></p> <p>The following activities are prohibited, unless specifically approved by Council:</p> <p>(d) Purchase by the City from any member of Council or employee of the City, their family members or from any other source, that would result in a conflict of interest, unless that interest has been declared pursuant to the Municipal Conflict of Interest Act or pursuant to the City’s Code of Conduct for Employees Policy or such other similar policy currently in force.</p> <p><b><u>#17 - Conflicts of Interest</u></b>  Section 4.17</p> <p>(1) Employees of the City shall not have a pecuniary interest, either directly or indirectly, in any City Contract or with any person acting for the City in any Contract for the supply of Goods and/or Services for which the City pays or is liable, directly or indirectly to pay unless such interest has been declared pursuant to the Code of Conduct for Employees Policy, as amended or replaced from time to time, and the employee otherwise complies with such policy.</p> <p>(2) In addition to complying with the Code of Conduct for Employees Policy as set out under subsection 4.17(1), employees of the City are required to declare any pecuniary interest, either direct or indirect, in writing to their General Manager with a copy to the Manager of Procurement indicating the specific nature of the conflict.</p>

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1. Brampton	<p>YES</p> <p>Conflicts of interest are reviewed on a case-by-case basis, including bids submitted by City Employees (confirmed via email).</p>	<p><b><u>Purchasing By-law</u></b></p> <p><b>Code of Conduct and Conflict of Interest.</b> The submission of all bids must include a declaration by the Bidder that there is no actual, potential or perceived conflict of interest. Where a Bidder indicates a conflict, it will be reviewed by the Purchasing Agent and the City Solicitor to determine if the conflict should disqualify that Bidder from the procurement process.</p>
2. Halton Region	<p>YES</p> <p>But employees cannot participate in the procurement process if they have a conflict of interest.</p>	<p><b><u>Procurement Policy</u></b></p> <p><b>Conflict of Interest.</b> Employees are to refrain from participating in the process to procure goods and services for the Region if they have a conflict of interest, including having a direct or indirect interest in any business that provides goods or services to the Region.</p>
3. Mississauga	<p>YES</p> <p>Permitted as long as the employee is not involved in the decision-making or does not use their position or confidential information to gain an advantage.</p> <p>Employees must disclose their conflict of interest and the Department Head will determine mitigation.</p>	<p><b><u>Procurement Bylaw</u></b></p> <p><b>Conflict of Interest.</b> 6 (2) Employees of the City shall comply with City policies on conflict of interest.</p> <p><b><u>Conflict of Interest Policy</u></b></p> <p><b>Making or Influencing Decisions - Financial Interests in Another Organization.</b> An employee may have a financial interest in another organization. If the employee is able to make a decision or to influence a decision regarding the organization's business dealings with the City (e.g., the award of a license, permit, contract, etc.) the employee must not participate in discussions or processes related to the decision and must immediately disclose the conflict of interest to the employee's supervisor and department head. The department head will determine appropriate steps to mitigate the conflict.</p> <p>If the employee is in no position to make or influence decisions affecting the other organization, there is no conflict, and the relationship need not be disclosed. At any time, if the employee is in doubt about how the relationship with the other organization would be viewed by an outside party, the employee should disclose the relationship to the applicable supervisor, director and/or department head.</p>
4. Niagara Region	<p>Yes</p> <p>If approved by Council</p>	<p><b><u>Procurement By-law</u></b></p> <p>IN HOUSE BIDS</p> <p>36. In House Bids (by one or more City employees) may be used for the Purchase of Goods and/or Services where:</p> <p>(a) external Suppliers have also been requested to submit Bids; and</p> <p>(b) Council has approved a format for the development and submission of the In House Bids.</p>
5. Windsor	<p>YES</p>	<p><b><u>Code of Ethics and Conflict of Interest Policy</u></b></p>

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	Not explicit in the Purchasing By-law, but there is mention in the Code of Ethics and Conflict of Interest Policy. The employee must submit a disclosure form, subject to review by the City Solicitor.	5.2.4.2.7 In cases of procurement activities, Employees and Volunteers to disclose any personal or close relationships with vendors where the employee is the participant, influencer or decision maker in the vendor selection/award process or where the Employee or Volunteer is also a vendor. The City Solicitor shall rule on Disclosure Forms submitted for Employee/Volunteer-Vendor relationships and submit a summary of these disclosures to the CAO each year.
6. Barrie	NO Unless approved by CAO	<b>Procurement By-law</b> <b>City's Conduct and Conflicts of Interest.</b> 6.4. No goods, services or construction will be purchased from an officer or employee of the City, or any associate or family member of an officer or employee, unless the extent of the interest of such individual has been fully disclosed to the CPO and the purchase has been subsequently approved by the CAO.
7. Guelph	NO Unless approved by Council.	<b>Purchasing Bylaw</b> <b>Conflict of Interest.</b> Unless prior Council approval has been provided, the City shall not purchase any Goods and/or Services from any member of Council or employee of the City, or any associate or family member of any member of Council or employee of the City. <b>Recommending Successful Bids.</b> Unless Council has decided to the contrary, the City shall reject any Bid submitted by: a. An officer, employee or member of Council of the City; b. A business of which an officer, employee or member of Council of the City is a director or officer; or c. A person who is not at arm's length from an officer, employee or member of Council of the City.
8. Kitchener	NO Unless approved by the CAO	<b>Purchasing By-Law</b> <b>Conduct and Conflict of Interest.</b> 170. 6. 4 No Goods, Services, Construction, or Consulting Services will be purchased from an employee of the City, or any associate or Immediate Family of an employee, unless the extent of the interest of such individual has been fully disclosed to the Director of Supply Services and the purchase has been subsequently approved in writing by the CAO.  Any Contract with the City in which a member of Council or any employee of the City has an undeclared direct or indirect pecuniary interest may be voided.
9. London	NO Unless the employees disclose their pecuniary interest prior to award of the contract.	<b>Procurement Policy</b> <b>5.0 Conflict of Interest</b> 5.1 No City employee shall have any pecuniary or controlling interest either direct or indirect in any competitive bid or contract for the supply of goods or services to the City, unless such pecuniary interest is disclosed in the competitive bid documents prior to award of the contract. Should a conflict of interest arise after the award of a contract, the conflict shall immediately be disclosed in writing to the Manager of Purchasing and Supply. If a conflict is not disclosed and is discovered the contract may be cancelled.

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10. Oakville	NO Unless approved by Council	<b>Procurement By-law</b> <b>Responsibilities of Council. 2. c)</b> The town shall not purchase supplies or service from any employee of the town or member of Council without the express authority of Council.
11. Peel Region	NO Unless approved by the CAO	<b>Procurement By-law</b> <b>Conflict of Interest. 8.1</b> No goods and services shall be purchased from a regional employee, or from any spouse, parent, grandparent, sibling, child, grandchild, niece, nephew, uncle or aunt of the employee, other than those services normally required under terms of employment unless the purchase has been approved by the Chief Administrative Officer.
12. Toronto	NO Unless approved by Council	<b>Purchasing By-law</b> <b>195-13.3. Conflicts of interest or unfair advantage.</b> Suppliers must disclose any actual or potential conflict of interest or unfair advantage related to the preparation of their bid, including engaging current or former City employees to take any part in the preparation of the bid or the performance of the contract if awarded, any time within two (2) years of such persons having left the employ of the City.  <b>195-14.2. In-house bids restricted.</b> Submissions to any solicitation will not be accepted from internal City employees or divisions, without prior approval by Council, including approval of the process for fairly evaluating those submissions.
13. Vaughan	NO If the employees disclose their pecuniary interest prior to award of the contract.  NOTE: The City of Vaughan is in the process of reviewing its Procurement Policy, so this may change.	<b>Procurement Policy</b> <b>Conflict of Interest.</b> Employees of the City, and their immediate family, shall not have a pecuniary interest, either directly or indirectly, in any City contract for the supply of goods, services and/or construction unless such interest has been declared in writing to their Manager with a copy to the Director of Procurement Services and Director of Legal Services indicating the specific nature of the conflict.  <b>Employee Code of Conduct</b> <b>Conflict of Interest.</b> Employees shall not gain personal benefit, directly or indirectly, from any agreement or contract with the City about which they can influence decisions or affect the outcome, or from access to information acquired in their official capacity which is not generally available to the public. Employees must disclose real or apparent conflicts to the Deputy City Manager or City Manager.
14. Burlington	NO Employees are not permitted to submit a bid.	<b>Procurement By-law</b> <b>8. Procurement Prohibitions and Compliance. 8.8</b> The City shall not acquire Goods and/or Services from Members of Council, appointed or City employees.

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15. Markham	NO Employees are not permitted to submit a bid.	<p><b><u>Procurement Bylaw</u></b>  <b>Administrative Procedures.</b> 4.4 No City staff, or member of Council may submit a Bid in response to a Quotation issued by the City, or sell or provide goods or services to the City outside of their employment with the City.</p>
16. Oshawa	NO Employees and their family members are not permitted to bid on City contracts.	<p><b><u>Purchasing By-law</u></b>  <b>11.06 Employees Restricted from Bidding to Sell:</b> No employee or appointed or elected official of the City, or any of their spouses, siblings, parents or children, shall Bid to supply the City with Goods and/or Services.</p>
17. Ottawa	NO A contractor or its personnel must not be employed by the City.	<p><b><u>Procurement Policy</u></b>  <b>2.18 Status of the Contractor.</b> The Contractor is engaged as an independent contractor for the sole purpose of performing the Work. Neither the Contractor nor any of its personnel is engaged as an employee, servant or agent of the City.</p>
18. Richmond Hill	NO Employees are not permitted to submit a bid.	<p><b><u>Procurement Policy</u></b>  <b>8.3 In-house Submissions and Personal Purchases.</b> Internal staff may not make Submissions to any RFX and no Submission from internal staff will be accepted in connection with any Acquisition.</p>