

# **Administrative Report**

## **Office of the Director of Financial Services/Treasurer**

**To: Robert Maisonville, Chief Administrative Officer**

**From: Sandra Zwiers  
Director of Financial Services/Treasurer**

**Date: May 16, 2018**

**Subject: Compliance Supervisor – Financial Services**

**Report #: 2018-0516-FIN-R005-SZ**

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### **Purpose**

To recommend the addition of a Compliance Supervisor to address risk and legislative compliance issues relating to the acquisition of the Corporation's goods and services through various procurement processes.

### **Background**

Procurement is a necessary function of every municipality. As demands for services increase, the Corporation is faced with the task of acquiring a growing number of goods and services to meet established service delivery standards. While often stationed within the finance department, procurement activities extend to all functional departments of the municipality.

The continual growth of the global marketplace and expanding legislative requirements for transparent and fair procurement practices are also creating challenges for local municipalities as they carry out their procurement functions. Common, administrative and treaty laws (both international and Canadian) all expose municipalities to risk (eg. Penalties, lawsuits) for failure to comply with open and documented procurement practices.

In 2017, two major changes occurred that impact the Corporation's procurement: the July 1<sup>st</sup> enactment of the Canadian Free Trade Agreement (CFTA) and the September 21<sup>st</sup> enactment of the Canada-European Union Comprehensive Economic and Trade Agreement (CETA). These agreements

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obligate the Corporation to higher levels of transparency and technical standards relating to the form and method of procurement at various spending levels and the detail and form of communication with the vendor market. [Appendix I](#), provided by LAS as part of a training session, illustrates the various requirements associated with both agreements.

The 2018 budget identified the addition of a full time position to address these procurement related risks and compliance issues. The position is intended to provide oversight and leadership for the Corporation's procurement processes and be a full time expert resource to all departments as they carry out their respective purchasing functions.

## **Discussion**

At present, procurement responsibility is decentralized among department heads. The Director of Financial Services / Treasurer oversees the Corporation's Procurement Policy and accounts payable process however procurement of various goods and services, and the means by which these are procured, are carried out departmentally without direct oversight and dedicated support from finance. The current structure is resulting in a lack of consistency among departments, time delays in preparing tendering documents and a general reduction in the Corporation's ability to nimbly carry out its service delivery obligations.

Positions focused on the efficient and effective execution of the procurement function already exist in many municipalities throughout the province. The establishment of a position that is dedicated to the procurement function ensures consistency and compliance across the Corporation and reduces the duplication of effort that often occurs in the absence of this position. A streamlined, well documented and supported approach to procurement also allows the Corporation to respond more timely to purchasing needs which has the potential to result in cost savings in both the market for goods and services and internal human resources. The overall risk exposure relating to procurement practices of the Corporation will also be positively impacted by the addition of this concentrated skill set.

Administration undertook an analysis of historic purchasing volumes and total procurement values to assess the scope and magnitude of the procurement function within the Corporation. ([Appendix II](#) and [Appendix III](#) illustrate the growth in volume and value over the last six year period.)

In addition to the historic increases in volumes and values, it is prudent to look ahead to the procurement obligations the Corporation anticipates

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managing as well. While all departments contribute to procurement volumes and values, Infrastructure Services and Long Term Care comprise the highest volume and value. Based on the capital projects forecasted in the Infrastructure Services' Expansion Plan ([Appendix IV](#)), it is evident that future procurement and complexity will continue to escalate. This escalation will only magnify the issues administration is currently experiencing.

To elaborate on what those issues are, discussions were held with department heads to ascertain their specific procurement related concerns. The following challenges were identified:

- Lack of standardized templates and the resources to develop them
- Increase in vendor demands for purchasing orders to initiate procurement (i.e. a more formal/detailed procurement process)
- Lack of knowledge of the ever changing legal requirements
- The impact of accessibility requirements on the posting of all procurement related materials/notices
- Managing the communication requirements to both successful and unsuccessful bidders
- Managing the increased filing and transparency requirements
- Risk management aspects of procurement (eg. Indemnification clauses, insurance coverage minimums, etc.)
- Lack of resources to investigate bulk buying opportunities within the Corporation and throughout the region
- Analysis of purchasing trends and identification of issues and opportunities
- Identification and investigation of transfer payment / grant opportunities that match planned procurements

Administration gathered information from a cross section of municipalities to determine the key roles and responsibilities for this position. A job description was prepared in the context of the needs of the Corporation and is attached to this report for consideration ([Appendix V](#)).

## Financial Implications

The 2018 Budget anticipated a mid-year addition to the staffing compliment. Based on the estimated timeline for advertising and conducting the selection process, it is expected that this position will be filled later in the year than budgeted resulting in savings in the 2018 budget.

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**Recommendation**

That the CAO present the request for the addition of a Compliance Supervisor for the Financial Services Department (which includes the realignment of the internal reporting structure of certain clerical staff) to County Council for approval.

Respectfully Submitted

*Sandra Zwiers*

Originally Signed by

Sandra Zwiers, Director of Financial Services/Treasurer

<b>Appendix No.</b>	<b>Title of Appendix</b>
I	<a href="#">CFTA – CETA Quick Reference Chart (from LAS)</a>
II	<a href="#">Purchasing Volume Comparison</a>
III	<a href="#">Purchasing Value Comparison</a>
IV	<a href="#">Illustration of Infrastructure Services’ Forecasted Procurement Escalation</a>
V	<a href="#">Job Description – Compliance Supervisor – Financial Services</a>

## Appendix I



### CFTA/CETA Quick Reference Chart

	<b>Canadian Free Trade Agreement (CFTA)</b>	<b>Comprehensive Economic and Trade Agreement (CETA)</b>
<b>Effective date</b>	July 1, 2017	September 21, 2017
<b>Objective</b>	-To reduce barriers to the free movement of goods and services within Canada -To establish an open efficient and stable domestic market	-To be a progressive free trade agreement covering virtually all sectors and aspects of Canada-EU trade to eliminate or reduce barriers -Note a heavier emphasis on goods than services
<b>Regulation Threshold</b> (Subject to adjustment for inflation; amounts shown are over life of contract)	\$100,000 or greater, for goods or services \$250,000 or greater, for construction	\$340,600 or greater, for goods or services \$8,500,000 or greater, for construction
<b>Requests for Information</b>	-Do not provide to any particular supplier, information that might prejudice fair competition between suppliers -Do not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person who has a commercial interest in the procurement	
<b>Vendor of Record</b>	To prevent the abuse of VOR's: -If the list is to remain active for longer than three years, you are required to provide an annual opportunity for suppliers to be added to refreshed lists -If the list is to remain active for less than a year, an invitation is only required once	
<b>Procurement Posting Timelines</b>	-Require a "reasonable" amount of time	-Must be posted for a minimum of 40 calendar days -Can be further reduced by 5 days each if: <ul style="list-style-type: none"> <li>- bid documents are posted electronically</li> <li>- submissions can be received electronically</li> <li>- the tender document is posted at the same time as the procurement notice</li> </ul> *Exception for second step procurement using VOR: the period must be mutually agreed upon and may be reduced to not less than 10 days*

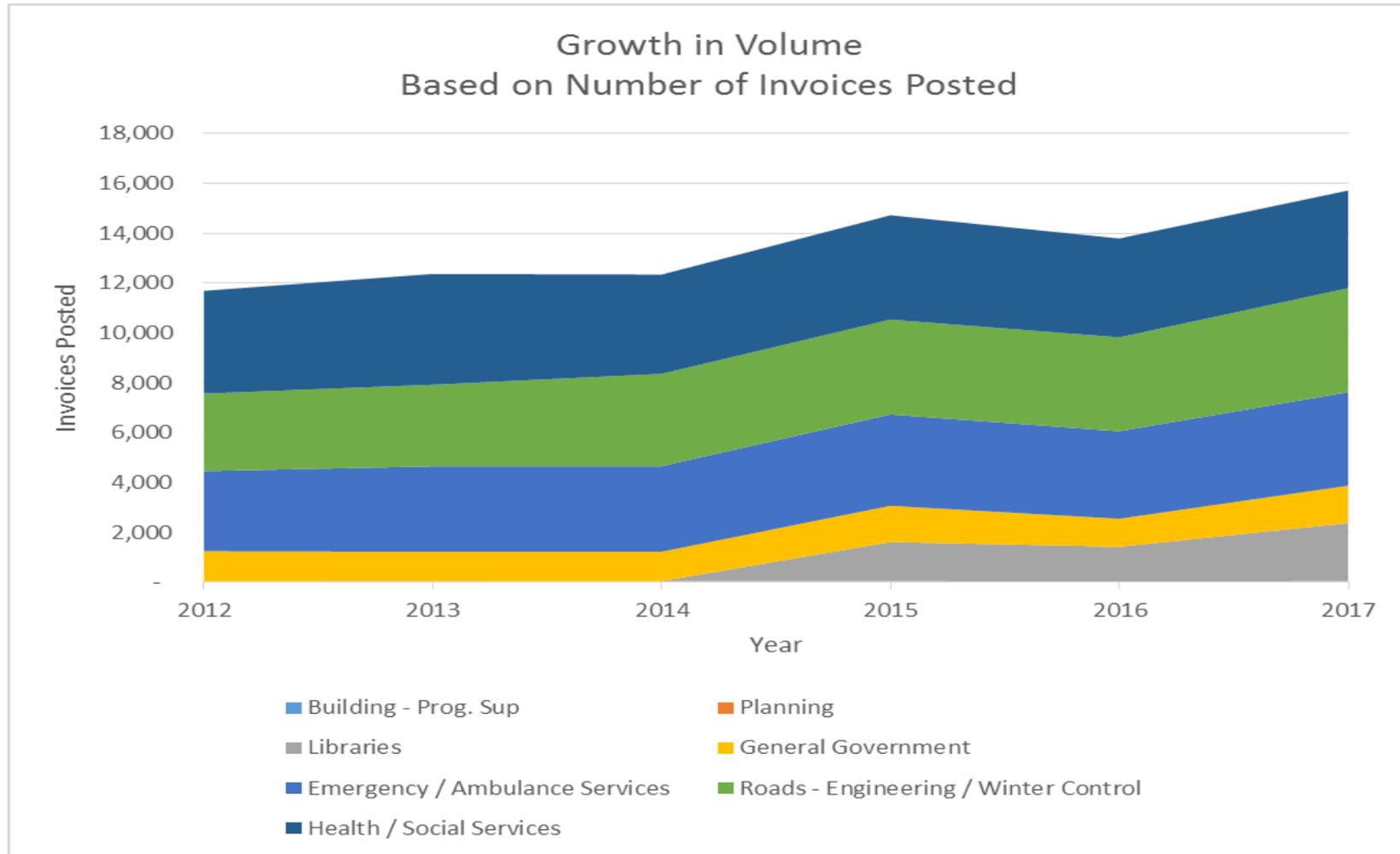


**CFTA/CETA Quick Reference Chart**

<b>Conditions Limiting Participation</b>	-Limit the conditions to those that "...are essential to ensure a supplier has the legal and financial capabilities, and the commercial and technical abilities to undertake the relevant procurement." *Note: Procuring entity can exclude them if they have significant/persistent deficiencies in performance of any substantive requirement/obligation under prior contract(s)*	
<b>Notice of Award Requirements</b>	Within 72 days, publish Public Notification of Award on the tendering website for a reasonable period of time: <ul style="list-style-type: none"> <li>- Description of Goods/Services</li> <li>- Name and address of procuring entity</li> <li>- Name and address of successful supplier</li> <li>- Value of tender</li> <li>- Date of Award</li> <li>- Conditions/circumstances justifying limited tendering (if used)</li> </ul> *Promptly inform participating bidders of the decision*	
<b>Disclosure/ Vendor Debriefing</b>	-Give reasons as to why their bid was not selected -Provide information to determine a fair, impartial, and compliant procurement process	
		-Explain why the winner won -Can withhold business confidential information -Get a direct comparison to successful proponent
<b>Administrative/Judicial Review Procedures</b>	-Must institute "a timely, effective, transparent and non-discriminatory administrative or judicial review procedure" to address breaches of the Procurement Chapter -May be challenged at any stage of the process	
<b>Damages Award</b>	-Possibly unlimited, but may be limited to: <ul style="list-style-type: none"> <li>- The costs of procurement preparation</li> <li>- The costs of the supplier challenge</li> <li>- Or Both</li> </ul>	
<b>Declaration of Intent</b>	-The municipality must publicly declare their intent to participate in a buying group -Period: Minimum 2 weeks -Recommend posting it on a public notice website	

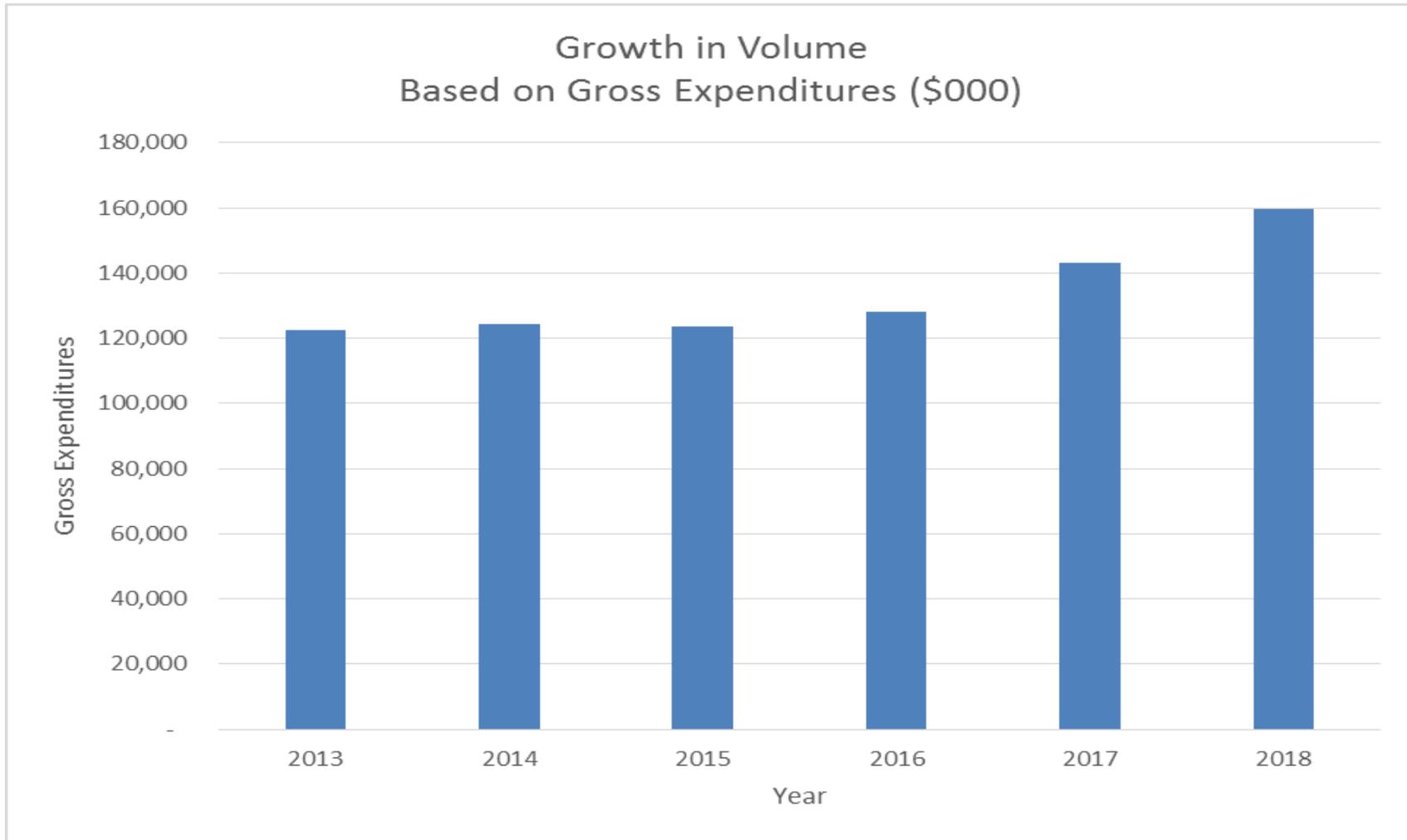
## Appendix II

### Purchasing Volume Comparison



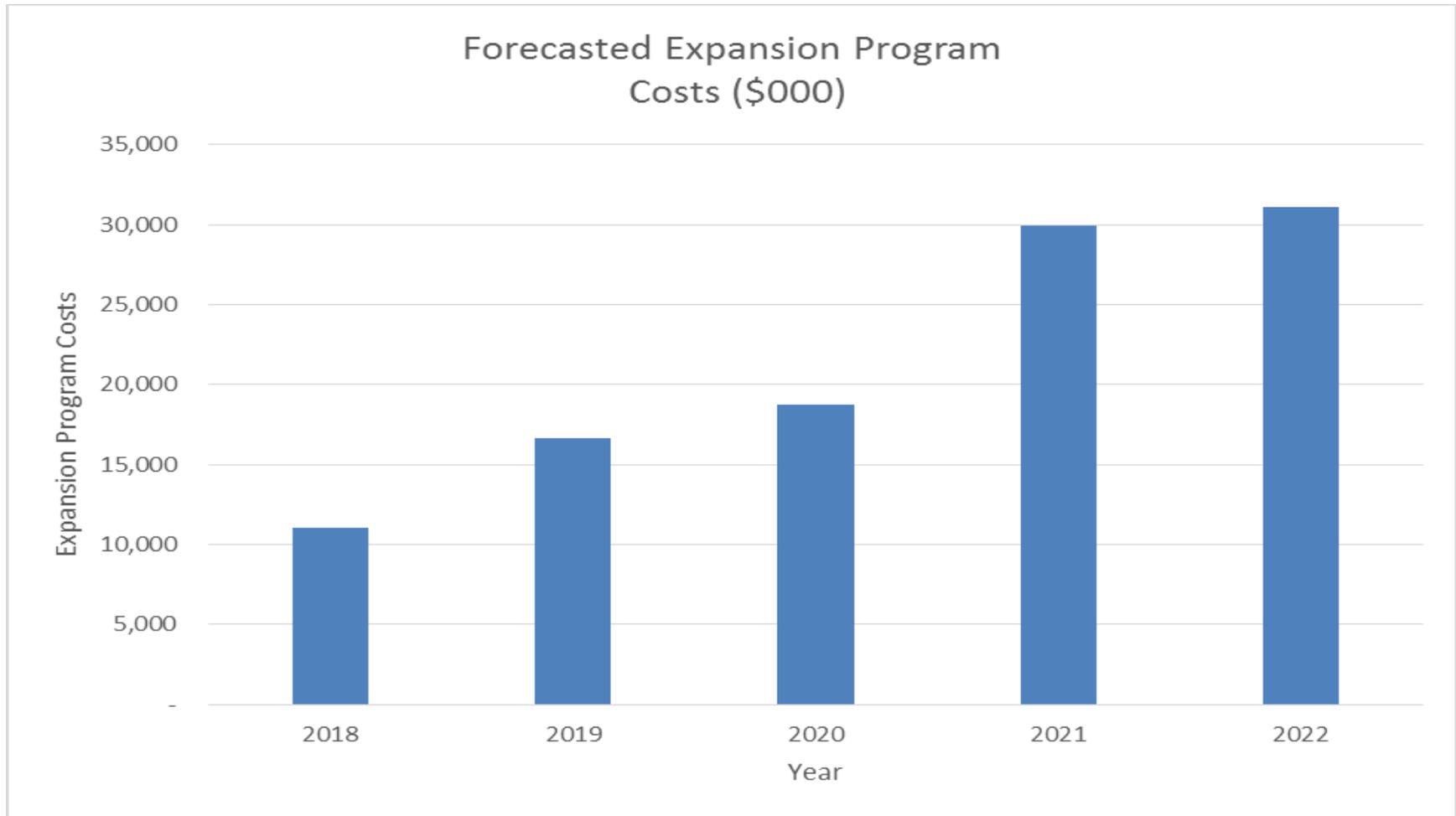
## **Appendix III**

### **Purchasing Value Comparison**



## **Appendix IV**

### **Infrastructure Services' Expansion Plan Illustration of Procurement Value Escalation**



## Appendix V



### Job Description Corporation of the County of Essex

**Job Title:** Compliance Supervisor

**Department:** Financial Services

#### Summary of Function

Reporting to the Director of Financial Services / Treasurer, provides guidance and oversight to departments relating to all procurement activities and ensures these activities are conducted with the goal of reducing risk exposure, maintaining compliance with prescribed and established legislation, policies, procedures and industry best practices.

Task	Description	Frequency
1	Develop, implement, manage and enforce Corporate Procurement and Risk Management programs to ensure compliance with Corporate policy, legislation and industry best practices.	
2	Provide professional procurement advice and work in partnership with internal customers in developing tenders, quotations and request for proposal specifications.	
3	Manage the recruitment process for vendors including: evaluation, selection, contract negotiation and dispute resolution in coordination with department heads.	
4	Manage the Corporation's procurement software by ensuring policies, procedures, training and implementation are adequate for the Corporation's needs and compliant with legislation.	
5	Develop and maintain supplier lists and manage vendor pre-qualification processes including development and delivery of vendor orientation program.	
6	Develop cooperative or bulk purchasing strategies and alliances with appropriate purchasing partners, including the lower tier municipalities.	
7	Provide corporate procurement contract administration and/or provide consultation to other departments on appropriate contract administration techniques.	

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Job Description

Job Title: Compliance Supervisor – Financial Services

Task	Description	Frequency
8	Provide ongoing review of existing ordering, accounts payable and cash requirement practices and make recommendations for improvements including the development of policies and procedures.	
9	Represent the Corporation and maintain positive relations with purchasing associations, insurance brokers, government agencies and legal representatives.	
10	Research and identify sources of available grant funding and report grant opportunities to appropriate department head(s).	
11	In coordination with the Director of Financial Services, manage the Corporation's insurance program and engage in risk management initiatives.	

### Qualifications

- Post-secondary diploma or degree in purchasing/business related field.
- Minimum of three years' experience in procurement related functions, preferably in a municipal or other public purchasing position.
- Purchasing designation from one of the following: National Institute of Governmental Purchasing (NIPG), the Purchasing Management Association of Canada (PMAC), the Ontario Public Buyers Association (OPBA) or other professional purchasing designation.
- In depth knowledge of municipal and procurement legislation, statutes, by-laws and standards. Knowledge of contract law is considered an asset.
- Thorough knowledge of capital budgeting and project management.
- Demonstrated experience in drafting procurement documents including, but not limited to tender templates, vendor agreements and public procurement reports.
- Excellent written and verbal communication skills to effectively communicate with all levels of Corporation staff and with external stakeholders.
- Capable of maintaining good relations with the public and other employees.

### Organizational Relationships

1. Director of Financial Services / Treasurer
2. Procurement Officer
3. Financial Services Clerks

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Job Description

Job Title: Compliance Supervisor – Financial Services

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**Working Conditions**

- Office Environment
- Working to Deadline

**Date Approved:**

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**Supervisor's Signature:**

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