



PROPOSED AMENDMENTS TO PURCHASING BY-LAW

Presentation to General Committee
December 15, 2008

Proposed Amendments to Purchasing By Law

Executive Summary

- The Town's Purchasing By-Law sets out the process and authority levels for purchasing of goods and services at the Town
- The Purchasing By-Law is reviewed at a minimum every 5 years , but should be reviewed periodically and amended to reflect changing business requirements
- The last amendments to the By-Law approved by Council in Dec 2004
- Purchasing is an extensive process that crosses all Commissions and Council, and therefore is worthy of review in the context of achieving "E3" efficiency and effectiveness

Proposed Amendments to Purchasing By Law

Key process involved resulting in proposed changes to the By Law

Changes to the By Law highlighted during the E3 efficiency and effectiveness process by staff

Focus group consisting of staff representing all the commissions was created to brainstorm suggestions for improvement

Focus group's discussions related to:

- authority levels for approvals of contract awards along with documentation necessary for obtaining approvals i.e. staff award reports, reports to Council

Proposed Amendments to Purchasing By Law

Based on the discussions at the Focus group session the Proposed amendments to the Bylaw are classified into:

1. Authority levels to award contracts resulting from Tenders, RFP/RFO
2. Other (Non competitive procurement)
3. Administrative changes (add definitions, termination, meeting title changes i.e. F&A to Genl Ctee etc.,)
4. Reporting to Council

Each of the above discussed in detail below:

Current Purchasing By Law

Methods of Procurement - Current

Where the value of the contract is:

- Up to \$5k - Purchasing Cards, Goods & Service Order (GSO's), or a purchase order (competitive process not required)
- >\$5k <\$25k - Issue Request for Quotations (RFQ). User department owns the process of soliciting suppliers and obtaining three quotes (excl. consulting and professional services). and recording/filing the quotations. A purchase order is issued by the Purchasing Department to the recommended supplier
- >\$25k < \$100k - Issue Request for Quotations (RFQ). Request sent by user department to Purchasing who solicit suppliers and obtain a minimum of three quotations. Purchasing owns the process of receiving quotes and contract awards

Current Purchasing By Law

Methods of Procurement - Current

Where the value of the contract is expected to be:

- >\$100k - Either issue Request for Proposal (RFP) or a Tender.
Process owned by the Purchasing department including advertising (newspaper and/or electronic media)

Request for Proposal (RFP)

Issued when the requirements or services cannot be clearly specified or when the requirements or services are non standard in nature. Contract award is made to the highest ranking bidder evaluated on pre determined criteria (product offering, quality of work, past performance etc.,)

Tenders

Issued when the requirements or services can be clearly specified. Contract award is made to the lowest price and qualified bidder.

Proposed Amendment to Purchasing By Law

Authority Levels to Awards Contracts - Current

Value of Award

| | |
|-----------------|------------------------------------|
| Up to \$5k | - Staff authorized by Commissioner |
| \$5k - \$50k | - Director |
| \$50k - \$100k | - Commissioner |
| \$100k - \$350k | - CAO |
| >\$350k | - Council |

Proposed - Authority Levels to be increased (Excludes RFP) if the following criteria are met:

- The expenses relating to the goods/ services is included in the budget (Operating/Capital)
- The award is within budget
- The award results from the normal tendering process of the Town
- The award is to the lowest priced based on set evaluation criteria
- The term of the contract is for a maximum of 4 years
- There are no litigation between the successful bidder and the Town
- There are no bidder protests or disqualified bidder at the time of contract award

Note: Excludes projects that require input and funding from other levels of government and organizations (Local, Regional, Provincial, Federal)

Proposed Amendment to Purchasing By Law

1. Authority Levels to Awards Contracts – RFQ (Values \$5 - \$25k)

A. Method of Procurement (RFQ \$5k - \$25k)

Current: User Department can solicit supplier's and obtain quotes
The requirement of goods to be approved by the Director

Proposed: The requirement of goods to be approved by the
Manager of the user department

Merits : Administrative changes to facilitate process efficiencies

Proposed Amendment to Purchasing By Law

1. Authority Levels to Awards Contracts – RFQ (Values >\$25k & <100k)

Current: Contract award authority to

- Director for value up to \$50k
- Commissioner for value from \$50k - \$100k

Proposed: Contract award authority that are within the criteria

- Director for value up to \$100k

RFQ's that are not within the criteria:

Proposed: No Change

Merits: Provides Director's increased authority to award contracts that fall within the laid down criteria thereby increasing operational efficiencies

Proposed Amendment to Purchasing By Law

1. **Authority Levels to Awards Contracts – Tender (Values >\$100k)**

Current: Contract award authority to:

- CAO for values >\$100k up to \$350k
- >\$350k requires Council Approval

Proposed: Contract award authority that are within the criteria

- Commissioner's for values >\$100k up to \$350k
- CAO for values >\$350k (If the following conditions apply)

Tenders that are not within the criteria:

Proposed: No Change

Merits: Provides Commissioner's/CAO increased authority to award contracts that fall within the laid down criteria thereby increasing operational efficiencies and turnaround time from 7 to 3 weeks for awards >\$350k

Proposed Amendment to Purchasing By Law

1. **Authority Levels to Awards Contracts – RFP >100k**

Current: Contract award authority to:

- >\$350k requires Council Approval.

Proposed: No Change

Proposed Amendment to Purchasing By Law

2. Other Amendments

B. Non Competitive Procurement

Current: Prior to contracts being awarded/negotiated they require CAO approval

- CAO - \$5k - \$350k
- Council – > \$350K

Proposed: Prior to contracts being awarded/negotiated they require Commissioner or CAO approval

- Commissioner - \$5k - \$50k
- CAO – \$50K - \$350K
- Council – > \$350K

Merits: Enables low dollar value purchases to be approved by the Commissioner's

Risks: Minimal. Awards from \$50-350k continues to be approved by CAO

Proposed Amendment to Purchasing By Law

2. Other Amendments – Contd.

B. Non Competitive Procurement

Current: Tenders, Requests for Proposal and Requests for Quotation may not be required for the following:

- (a) Hydro Electric Corporations;
- (b) Public utilities;
- (c) Provincial and federal government agencies or Crown corporations; or
- (d) Municipalities and special purpose bodies within the Town when similar goods or services are not available from any other source.
- (e) Toronto and Region Conservation Authority (TRCA)

Current: Approval levels

- CAO - \$5k - \$350k (Items a – e)
- Council – > \$350K (Items a – e)

Proposed Amendment to Purchasing By Law

2. Other Amendments – Contd.

Proposed: Tenders, Requests for Proposal and Requests for Quotation may not be required for the following:

- (a) Hydro / Electric Corporations;
- (b) utilities;
- (c) Provincial and federal government agencies or Crown corporations; or
- (d) Municipalities and special purpose bodies within the Town when similar goods or services are not available from any other source.
- (e) Toronto and Region Conservation Authority (TRCA)

Proposed: Approval levels

- Director or Commissioner - \$5k - \$350k (Items a – b) **Relocates only***
- CAO - \$5k - \$350k (Items a – e)
- Council – > \$350K (Items a – e)

* Within a existing construction project and for constructs duly approved during the budget phase.

Merits: Minimizes delay claims from contractors, expedites construction

Proposed Amendment to Purchasing By Law

3. Administrative Changes

Authority for Termination of Contracts

Current: Included under General Terms & Conditions in the bid document without authority limits

(Note: Terminations are done only with the approval of legal department)

Proposed: Add a section in the By Law for termination of contracts with authority to terminate contracts provide to one level above the original contract authority approval, subject to prior approval from the Legal department

Proposed Amendment to Purchasing By Law

3. Administrative Changes

- Change all reference to F&A Committee to read as General Committee
- Purchasing Manager's duties – Assumption of authority (interpretation clause)
 - Current - Treasurer or Director of Financial & Client Services
 - Proposed – Treasurer or Designate
- Director (Add to Definition)
 - Include Chief Information Officer (CIO) in the definition section of "Director" and any title or position that are deemed to be equal of that of a Director as approved by Human Resources

Proposed Amendment to Purchasing By Law

3. Administrative Changes (Cont'd)

Contract Execution (Written agreements)

Authority to execute contracts on behalf of the Town

Current:

- \$5k - \$25k - Director (User)
- \$25 - \$100k - Manager of Purchasing
- \$100k - \$350k – Not Specified
- >\$350 – Council

Proposed:

Authority to execute contracts on behalf of the Town after approval of User Department and in a form satisfactory to the Town Solicitor

- \$5k - \$350k – Manager of Purchasing and Commissioner*
- >\$350 – Council or as determined by Council

*As it relates to the purchase of goods and services

Proposed Amendment to Purchasing By Law

4. Reporting to Council

Current: Treasurer reports to Council on a monthly basis for all Tenders, RFP and RFQ awarded by staff that are >\$50k and <\$350k

Proposed: A monthly report to Council that will include all Tenders, RFP and RFQ that have been awarded by staff that are >\$50K

Merits: Continues to provide Council information on contract awards, which are >\$50k

Proposed Amendment to Purchasing By Law

Merits of the proposed amendments

- Low risk to Council due to strict rules that surround the delegation of authority to award contracts to Director's/Commissioner's and CAO
- Reduced number of reports to Staff and Council
- Quicker contractual awards (7 weeks to 3 weeks) or (3 weeks to 2 weeks)
- Turnaround time reduced from 7 weeks to 3 weeks for Council reports. Expected to reduce 15-20 awards annually
- Turnaround time reduced from 3 weeks to 2 weeks for staff awards. Expected to reduce internal approvals for 50-60 awards annually
- Strongly highlighted as an area for efficiencies in the E3 initiative

Proposed Amendment to Purchasing By Law

Comparison

| Regions and Municipalities | \$100,000 - < \$350,000 | >\$350,000 | >\$500,000 |
|-----------------------------------|-----------------------------------|----------------------|----------------------|
| Markham(Current) | CAO | Council | Council |
| Markham (Proposed)* | Commissioner | CAO | CAO |
| York | CAO | CAO | CAO |
| Peel | Director | Director | Director |
| Durham | CAO | CAO | CAO |
| Halton | CAO | CAO | CAO |
| Brampton | Commissioner | Commissioner | Commissioner |
| Oakville | Commissioner | CAO | CAO |
| Ottawa | CAO | CAO | CAO |
| Hamilton | CAO | Council | Council |
| Niagara | CAO | CAO | CAO |
| Richmond Hill | Council | Council | Council |
| Mississauga | Directors | Commissioner | Council |
| Vaughan | Council | Council | Council |

Proposed Amendment to Purchasing By Law

Summary of Proposed Changes

Proposed Amendments to Purchasing By Law Summary

1. Authority to Award Contracts

| Award (\$) | Tenders | | | RFPs | | RFQ's | | |
|------------------|-------------------------------------------------------------------------------------|-----------------|------------------|---------|----------|------------------|------------------|--------------|
| | Current | Proposed | | Current | Proposed | Current | Proposed | |
| | | Within Criteria | Outside Criteria | | | Within Criteria | Outside Criteria | |
| <5k | Non competitive process (authority to purchase by staff authorized by Commissioner) | | | | | | | |
| >5k and <25k * | | | | | | Director | Manager** | |
| >25k and <100k | | | | | | Director/Commsnr | Director | |
| >50k | | | | | | | | Commissioner |
| >100k and < 350k | CAO | Commissioner | CAO | CAO | CAO | | | |
| >350k | Council | CAO | Council | Council | Council | | | |

* No change to existing authority to award Consulting and Professional Services up to \$25k

** Align with expenditure control policy

Proposed Amendment to Purchasing By Law

Summary of Proposed Changes

2. Non Competitive Procurement (e.g. Preferred Supplier / Single Source)

| | Current | Proposed |
|----------------|---------|--------------|
| \$5k - \$350k | CAO | |
| \$5k - \$50k | | Commissioner |
| \$50k - \$350k | | CAO |
| >\$350k | | Council |

3. Non Competetive Procurement - Relocates

| | Current | Proposed |
|---------------|---------|-----------------------|
| \$5k - \$350k | CAO | |
| >\$350k | Council | |
| \$5k - \$350k | | Director/Commissioner |

Proposed Amendment to Purchasing By Law

NEXT STEPS

- Report to General Committee on Purchasing By-Law amendments in January 2009
- Recommendation of proposed amendments to Council for approval
- Amended By Law passed at Council