



Report to: General Committee

Date Report Authored: January 6, 2012

SUBJECT: Unsolicited Proposal Policy

PREPARED BY: Alex Moore, Ext, 4711

RECOMMENDATION:

- 1) That staff report entitled “Unsolicited Proposal Policy” be received;
- 2) That Council approve the Unsolicited Proposal Policy (Attachment “A”);
- 3) That the Town’s Purchasing By-Law 2004-341 be amended to include a section that refers to the Unsolicited Proposal Policy;
- 4) And That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to obtain approval of the Unsolicited Proposal Policy (Attachment “A”) that establishes the policies and procedures to be followed in the event of the receipt of an Unsolicited Proposal by the Town.

BACKGROUND:

The Town of Markham currently does not have a policy in place that would provide a prescribed process for Staff to follow if the Town receives an Unsolicited Proposal. An “Unsolicited Proposal” means a written proposal submitted to the Town on the initiative of a vendor for the purpose of obtaining a contract with the Town. Unsolicited Proposals may present unique, innovative or valuable ideas for the Town’s consideration.

The Purchasing By-Law allows for non-competitive contractual awards and outlines when Staff are able to utilize such a procurement mechanism. However, the Purchasing By-Law does not provide procedures regarding the submission, receipt, evaluation, acceptance or rejection of an Unsolicited Proposal.

Staff reviewed the policies of other municipalities and note that the City of Toronto and City of Ottawa have adopted formal processes to evaluate Unsolicited Proposals. Staff also retained an external law firm to review the Unsolicited Proposal Policy (Attachment “A”) and the law firm’s feedback has been incorporated into the policy.

OPTIONS/DISCUSSIONS:

The receipt of Unsolicited Proposals is not common in the public sector. Public sector organizations are not likely to accept an Unsolicited Proposal (regardless of its merit) without a formal policy supporting their actions, as the process may be seen as arbitrary and not in accordance with the public sector requirements of fair, open and transparent procurement.

In addition, vendors may be reluctant to submit proposals containing confidential and/or proprietary information without a formal policy to protect such information.

The purpose of the Unsolicited Proposal Policy (Attachment "A") is to establish a framework that will allow Staff to receive and review proposals not solicited through a normal procurement process, while ensuring transparency, fairness, and openness, and the protection of vendors' proprietary and/or confidential information.

If the Town was to receive an Unsolicited Proposal with the attached policy in place, the policy sets out step by step instructions to Staff and the vendor, enabling the Town to appropriately review and evaluate the Unsolicited Proposal without compromising the tenets laid down in the Purchasing By-Law.

The submission, receipt, evaluation, approval, acceptance/ rejection processes set out in the Unsolicited Proposal Policy ensure that an Unsolicited Proposal is not simply a means to bypass a fair, open and transparent public procurement process, while also allowing Staff to consider unique or innovative ideas / approaches which may be beneficial to the Town.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

N/A

HUMAN RESOURCES CONSIDERATIONS

N/A

BUSINESS UNITS CONSULTED AND AFFECTED:

The Legal Department has been consulted in developing this policy and in the preparation of this report.

RECOMMENDED BY:

08/02/2012

08/02/2012

X 

Joel Lustig
Treasurer

X 

Dennis Flaherty
Acting Commissioner, Corporate Services

ATTACHMENTS:

[Attachment A: Unsolicited Proposal Policy and Vendor Declaration R1](#)