



STAFF REPORT ACTION REQUIRED

Criteria for Procurement Awards made by the Standing Committee and/or Council

Date:	March 16, 2007
To:	Government Management Committee
From:	Treasurer
Wards:	All Wards
Reference Number:	P:\2007\Internal Services\pmmd\gm07013pmmd (AFS #4207)

SUMMARY

This report is in response to a request from the February 15th meeting of the General Government Committee on the criteria for Procurement awards made by Standing Committee and/or Council.

Absent any determination by staff or direction from Council that a particular contract award requires Council approval, the Bid Committee should be authorized to approve the award of all contracts where the lowest bidder meeting specifications or highest scoring proponent is being recommended, funding approval is in place and there are no material written objections to the award. For awards where these conditions are not satisfied or where staff have determined or Council has directed that Council approval is required, the award must be approved by Council, regardless of dollar value.

RECOMMENDATIONS

The Treasurer recommends that:

1. Section 195-13, 195-14 and 195-15 of the Municipal code, be revised to read as per the attached Appendix A, as explained in this report.

Financial Impact

No financial impact.

DECISION HISTORY

The Purchasing By-law allows for the Bid Committee to award contracts up to \$5 million (exclusive of taxes) in value where the award is to the lowest bidder or highest scoring proponent, funding has been previously approved and there are no material written objections to the award. All other contracts must be awarded by Standing Committee or Council.

A report was submitted to the February 15, 2007 General Government Committee meeting titled "[Awarding of Contracts by the Bid Committee](#)" recommending that contracts above \$5 million (exclusive of taxes) meeting the above conditions also be awarded by the Bid Committee. The Committee referred the report back to the Treasurer requesting a report on the criteria for procurement awards made by Standing Committees and/or Council.

ISSUE BACKGROUND

Authority for Procurement Awards

The Purchasing by-law gives authority for procurement awards to staff (Chief Purchasing Official or Bid Committee), Standing Committee and Council.

Staff can only award contracts where:

- a) The lowest bidder or highest scoring proponent is being recommended
- b) Funding has been previously approved
- c) There are no material written objections to the award

All other awards must be forwarded to Standing Committee and Council for approval.

The current criteria for awarding of contracts is summarized in the table below:

Current Criteria for Contract Award

Criteria for Award	Award by Chief Purchasing Official	Award by Bid Committee	Award by Standing Committee	Award by Council Through Standing Committee
1. up to \$500,000 (exclusive of taxes), where conditions a), b), and c) are satisfied	X			
2. between \$500,000 and \$5 million (excluding taxes) where conditions a), b), and c) are satisfied		X		

Criteria for Award	Award by Chief Purchasing Official	Award by Bid Committee	Award by Standing Committee	Award by Council Through Standing Committee
3. above \$5 million (excluding taxes) where conditions a), b) and c) are satisfied			X	
4. same as #3 during summer recess, election periods, or any other time when regularly scheduled meetings of Standing Committee and Council are cancelled		X		
5. Any dollar amount where conditions a), b), or c) have not been satisfied or where staff and/or Council has determined that Council approval is required				X

Normally, Standing Committee awards all contracts above \$5 million where conditions a), b), and c) are satisfied. However, during summer recess, election periods or any other time when regularly scheduled meetings of the Standing Committees and Council are cancelled, the Bid Committee is authorized to award all contracts above \$5 million where conditions a), b) and c) have been met. Staff are recommending that this delegation be extended to authorize the Bid Committee to regularly award all contracts where conditions a), b) and c) are met.

COMMENTS

In accordance with the Purchasing By-law, in 2006 Standing Committee awarded 12 contracts that met conditions a), b) and c). The contract values were from \$5.04 million to \$18.05 million with an average value of \$9.4 million.

The table below summarizes the Standing Committee awards by type:

Number Awarded	Number Awarded	Average Value
1. Chemicals	2	\$ 8,839,740.20
2. Facilities & Real Estate	1	\$11,400,392.52
3. Fuels	1	\$ 6,736,215.98
4. Information Technology	2	\$ 6,527,000.00
5. Red Light Camera Operations	1	\$13,793,600.00
6. Telecommunications Equipment/Services	2	\$ 8,877,050.00
7. Tires and Retreads	1	\$ 8,355,799.96
8. Vehicles	2	\$12,129,670.71

There were no material objections on the award of any of these contracts and Council approved staff's recommendations 100% of the time. In fact, Council has never overturned a staff recommendation on major purchases. However, the award of these contracts was delayed up to 4 weeks by having to obtain Standing Committee approval.

As required by the Purchasing By-law, Council awarded 66 contracts where conditions a), b), or c) were not satisfied. The value of these contracts ranged from \$39,700 to \$42.7 million with an average value of \$3.8 million. Under the proposed revision to the Purchasing By-law, these contracts will continue to be awarded by Council through the Standing Committees.

Under the authority of the Bid Committee, during summer recess and election period, the Bid Committee awarded 5 contracts above the \$5 million limit which normally would have been awarded by Standing Committee. The value of the contracts ranged from \$5.2 million to \$22.2 million with an average value of \$12.6 million. Operational difficulties would have been encountered if the award of these contracts would have been delayed until meetings of Standing Committees resumed. The Bid Committee awarded a total of 339 contracts in 2006.

The table below summarizes the number of awards made by Bid Committee, Standing Committee and Council in 2006:

Awarded by Bid Committee	Awarded by Standing Committee	Awarded by Council through Standing Committee
339	12	66

Where conditions a), b) and c) are satisfied, Committee does not really have an option other than to approve the award as recommended. Should Committee overturn staff's recommendation, the City would suffer reputational risk at best and litigation at worst. This fact was recognized by Justice Bellamy and expressed in her recommendation number 130 which states that Councillors should separate themselves from the procurement process. The awarding of these contracts by the Bid Committee will ensure faster award and faster delivery of goods or services as the Bid Committee meets weekly to award contracts. It will also remove the participation of Councillors in straight forward, routine contract awards.

However, staff appreciate Council's desire to exercise its oversight and quality assurance role in the City's strategic procurement decisions. Despite any delegation to staff that Council may approve, it is always open to Council or staff to make a determination that certain procurement awards should be reported to an approved by Council.

In July 2005, Council approved the [Policy for Access to Information to Members of Council at Various Stages of the Procurement Process](#). This policy sets out criteria to be considered by Council and staff in order to determine which impending calls are strategic and warrant Council’s direction with respect to the objectives, scope and deliverables. The criteria are based on contract size, term, public profile and specification/scope stability. The criteria require judgement and may be applied individually or as a group. Examples in which Council has provided strategic direction include the move to consignment inventory for Fleet Services, the wireless “hotspot” pilot, 311, and Street Furniture.

When determining the City’s purchasing requirements during the budget process, Council may use these criteria to identify those purchases that warrant direction and input from Council prior to the issuance of the call. Staff also employ the criteria to determine when a pending procurement should be brought forward to Committee and Council for direction. This process can also be used to identify any contract awards that will require Council approval.

Under this process, where a call has been identified for Committee and Council direction, staff will bring forward a report outlining the recommended objectives, scope and deliverables of the call for Council’s consideration. At that time, Council may direct that staff report back to Committee and Council with the results of the call and obtain Council approval of any recommendation with respect to the award of the contract.

Under the proposed revision to the Purchasing By-law, Standing Committee awards of contracts meeting conditions a), b) and c) that have not been identified as requiring Council approval, will be transferred to Bid committee and the new contract awarding structure will be as shown in the table below:

Proposed Criteria for Contract Awards

Criteria for Award	Award by Chief Purchasing Official	Award by Bid Committee	Award by Standing Committee	Award by Council Through Standing Committee
1. up to \$500,000 (exclusive of taxes), where conditions a), b) and c) are met	X			
2. above \$500,000 (excluding taxes) where conditions a), b) and c) are met		X		
3. Any dollar amount where conditions a), b), or c) have not been satisfied or where staff and/ or Council has determined that Council approval is required				X

The Bid Committee agenda and minutes are public documents and all Council members receive these documents. This procedure will continue. Section 195-14 of Chapter 195 of the Municipal Code also requires that all Bid Committee awards be reported semi-annually to Standing Committee. As Council members are already getting this information through Bid Committee agenda and minutes of meetings, we are recommending that section 195-14 be deleted from the Purchasing By-law.

Legal Services has been consulted and concurs with the contents of this report.

CONTACT

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SIGNATURE

Cam Weldon
Treasurer

ATTACHMENTS

Appendix A – Proposed Revisions to Municipal Code, Chapter 195