

2007 and 2008 Sole Source Activity up to \$500,000

Date:	April 28, 2010
To:	Audit Committee
From:	Treasurer
Wards:	All
Reference Number:	P:/2010/Internal Services/pmmd/ac10018pmmd (AFS #10894)

SUMMARY

This report provides information on the City's sole source policies and procedures, and sole source contracts processed in 2007 and 2008 for amounts up to \$500,000.

Financial Impact

There are no financial implications to the City of Toronto as a result of this report.

The Deputy City Manager and Chief Financial has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on October 20, 2009, the Audit Committee, in considering a report from the Auditor General titled "Process for Non-Competitive Procurement (Sole Sourcing) Needs Improvement" (re: AU11.5), requested that the:

- a) Treasurer report back to the Committee with a list of all sole source contracts which were awarded for amounts up to \$500,000 during the period January 1, 2007 to December 31, 2008, such list to include names of the awardees, dates, amounts and reasons for the sole source awards;
- b) Deputy City Manager and Chief Financial Officer report on the advisability of requesting the City's Agencies, Boards and Commissions (ABC's) to include information on sole source contracts as part of their annual reports.

Following is the link to the decision document:

<http://www.toronto.ca/legdocs/mmis/2009/au/reports/2009-10-20-au11-cr.htm#AU11.5>

ISSUE BACKGROUND

As approved by Council in the Procurement Processes Policy, a sole source or non-competitive procurement process can only be used if one or more of the following conditions apply:

- Where the goods and services are only available from one source or one supplier by reason of a statutory or market based monopoly, scarcity of supply in the market, existence of exclusive rights (patent, copyright, or licence), need for compatibility with goods and services previously acquired and there are no reasonable alternatives, substitutes, or accommodations, need to avoid violating warranties and guarantees where service is required.
- If an attempt to purchase the required goods and services has been made in good faith using a competitive method and has failed to identify a successful supplier.
- If the goods and services are required as a result of an emergency, which would not reasonably permit the use of the other methods permitted.
- If the required goods and services are to be supplied by a particular vendor or supplier having special knowledge, skills, expertise or experience which cannot be provided by any other supplier.
- If the nature of the requirement is such that it would not be in the public interest to solicit competitive bids as in the case of security or confidential matters.
- If any other sole or single source purchase is permitted under the provisions of the Purchasing or Financial Control Chapters of the City's Municipal Code.

The Procurement Processes Policy can be found at the following link:

http://insideto.toronto.ca/purchasing/pdf/policy_procurement_process.pdf

The Sole Source or Non-Competitive Procurement Policy can be found at the following link:

http://insideto.toronto.ca/purchasing/pdf/sole_source_procedure.pdf

Sole Source Contracts under \$50,000

Sole Source purchases valued at \$50,000 or less may be processed by City Divisions using a Divisional Purchase Order (DPO). The DPO process is used only where it has been determined that a Division's requirements for goods and services is not repetitive,

does not exceed \$50,000 in value (exclusive of taxes), and cannot be fulfilled from a current blanket contract or from City stores. The Divisional Purchase Order procedure is available at:

http://insideto.toronto.ca/purchasing/pdf/procedure_dpo_18nov09.pdf

City Divisions must complete a Sole Source Request Form (SSRF) each time they wish to purchase using the sole source DPO process. The form must provide a clear and detailed explanation as to why the purchase must be made on a sole source basis. The SSRF must be signed off and approved by the Division Head prior to processing the sole source purchase. Divisions may also elect to send their sole source requests to the Purchasing and Material Management Division (PMMD) for approval and processing if the Division deems the sole source to be complex, or is uncertain if the goods/services will exceed the \$50,000 limit.

Quality assurance reviews are regularly performed by PMMD staff to determine whether divisional purchases of goods and services were in compliance with DPO Policies and Procedures. The procedure for performing quality assurance reviews on DPO purchases can be found at the following link:

http://insideto.toronto.ca/purchasing/pdf/dpo_qualassurrev_nov09.pdf

Sole Source Contracts between \$50,000 and \$500,000

All sole source purchases between \$50,000 (exclusive of taxes) and \$500,000 (exclusive of taxes) are processed by PMMD. Divisions requiring a sole source purchase must complete, and forward to PMMD for approval and processing, a Sole Source Request Form (SSRF) approved by the Division Head clearly outlining the: a) rationale for using a sole source procurement process including the detailed reason for the product/service selected, as well as verification and the identification of the sole source vendor; and, b) justification as to why the goods and/or services cannot be procured through the normal purchasing procedures (i.e. competitive bidding process).

Sole Source Contracts over \$500,000

Sole source purchases greater than \$500,000 must be reported to and approved by Standing Committee and Council.

COMMENTS

A report is submitted annually to Government Management Committee on sole source purchases that exceed the Divisional Purchase Order limit of \$50,000, and which were not previously reported to Committee. Following are the links for the 2007 and 2008 Annual Report on Sole Source Purchasing Activity:

<http://www.toronto.ca/legdocs/mmis/2008/gm/bgrd/backgroundfile-11978.pdf>

As requested by the Committee, the four attachments to this report provide a listing of all sole source purchasing activity (purchase orders, blanket contracts, DPO's) up to \$500,000 for the years 2007 and 2008, including names of the awardees, dates, amounts and reason for the sole source awards:

- a) Attachments 1 and 3 list sole source DPO's up to \$50,000 issued in 2007 and 2008 respectively;
- b) Attachments 2 and 4 list sole source purchase orders and blanket contracts issued by PMMD up to \$500,000 in 2007 and 2008 respectively.

All sole source DPO purchases processed by Divisions or sole source Purchase Orders or Blanket Contracts issued by PMMD must be entered in the City's Financial Information System (FIS) to allow payment of invoices for the purchases. The system includes a list of reasons for the sole source purchases and requires that the reason for the sole source purchase be selected from the list when entering the information. The reasons provided in the system, and reflected in Attachments 1 to 4, are in accordance with the City's Procurement Processes Policy and include the following:

1. Emergency
2. Proprietary/Trademark/Patent
3. Match existing product or service
4. Time constraint
5. Bridging contract until a new contract is in place
6. Specialized services that can only be provided by one supplier
7. Confidential matters where competitive calls cannot be advertised
8. Cost sharing with other government organizations
9. Work completed and/or goods delivered without a Purchase Order
10. Ensure warranty maintenance
11. No bids received for formal call issued
12. Other reason (with an explanation provided)

It should be noted that the "Other reason" category was used prior to 2008 to indicate sole source purchases in regards to bridging contracts, goods ordered and received or work completed without a Purchase Order issued, specialized services that could only be provided by one supplier, confidential matters where competitive calls could not be advertised, cost sharing with other organizations, service provided by a supplier to ensure warranty is maintained and no bids were received for a formal call issued by PMMD. In September 2008, the City Financial Information System was modified to include the specific reason for the sole source purchase, rather than using the "Other reason" only.

Table 1, below, summarizes the sole source purchasing activity up to \$500,000 for 2007 and 2008.

Table 1: Summary of Sole Source Purchasing Activity up to \$500,000
2007 & 2008

	2007		2008	
	#	\$	#	\$
DPOs (Issued by Divisions)	1,987	7,666,301	1,984	12,325,967
Purchase Orders and Blanket Contracts (Issued by PMMD)	<u>532</u>	<u>41,546,594</u>	<u>372</u>	<u>40,701,664</u>
Total Sole Source Purchases	<u>2,519</u>	<u>49,212,895</u>	<u>2,356</u>	<u>53,027,631</u>
Total Purchases for the Year		1,120,274,754		1,988,266,226
Sole Source Activity as a %age of Total Purchases Processed		4.39%		2.67%

As indicated by Table 1, sole source purchases within staff authority of up to \$500,000 represent under 5% of the City's total dollar value of purchases each year. PMMD works closely with Divisions and provides training where necessary to keep sole source purchases to a minimum. Divisions are also provided with quarterly reports on their sole source purchasing activity to assist them in keeping sole source purchases to a minimum. Utilizing a variety of checks and balances, PMMD ensures that there is adequate justification for each sole source purchase and the City is obtaining the best possible price for goods/services purchased on a sole source basis.

ABC's Including Information on Sole Source Contracts as Part of Their Annual Reports

Following a review of the issue, staff advise that it is not appropriate to request ABCs to include information on sole source contracts in their annual report as this is specific information that is not normally included in an annual report, and inclusion of this information might detract from the overall messaging of the report.

The TTC currently reports to the TTC Commission on a monthly basis on sole source purchases over \$60,000.

Accounting Services staff will continue to consult with staff from the ABCs to identify options for appropriately reporting sole source contract purchases.

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SIGNATURE

Giuliana Carbone
Treasurer

ATTACHMENTS

Attachment 1 - Sole Source Divisional Purchase Orders (DPO's) issued up to \$50,000 for the Year 2007

Attachment 2– Sole Source Purchase Orders and Blanket Contracts issued by PMMD up to \$500,000 for the Year 2007

Attachment 3 - Sole Source Divisional Purchase Orders (DPO's) issued up to \$50,000 for the Year 2008

Attachment 4– Sole Source Purchase Orders and Blanket Contracts issued by PMMD up to \$500,000 for the Year 2008