



## REPORT FOR ACTION

### **Executing Purchases of Goods and Service Contracts, including Construction, by the General Manager, Transportation Services Division**

**Date:** November 21, 2019

**To:** Infrastructure and Environment Committee

**From:** General Manager, Transportation Services and City Solicitor

**Wards:** All

#### **SUMMARY**

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The purpose of this report is to recommend changes and streamline the process for the preparation and approval "as to form" for standard form contracts for the purchase of goods and services, including construction, by the General Manager, Transportation Services, that have been awarded by tender, request for proposal, request for quotation, sole source or any other City procurement process. This delegation to the General Manager of Transportation Services will facilitate the streamlining of the procurement process, reduce delays in contract execution and expedite the delivery of projects.

Since Transportation Services Division has restructured to become more functionally organized, the following efficiencies can be achieved by centralizing the execution of contract purchasing:

- Reduced physical circulation of documentation and review time in the process;
- Ability for Transportation Services staff to establish relative priorities amongst the contracts in need of execution;
- Transportation Services staff are in a better position to answer questions concerning the nature of contracts should they arise in the course of circulation; and
- Staff who are accountable for administering the Capital Program will be more responsible for all the steps needed to fulfill the program.

Engineering & Construction Services and Legal Services support Transportation Services in its efforts to centralize the administration of contract executions.

## **RECOMMENDATIONS**

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The General Manager, Transportation Services and City Solicitor recommend that:

1. City Council authorize the General Manager, Transportation Services to prepare and approve "as to form" all standard form contracts for the purchase of goods and services, including construction, by Transportation Services, that have been awarded by tender, request for proposal, request for quotation, sole source or any other City procurement process, prior to the execution of such agreements by appropriate City officials, utilizing such standard processes and standard form documents as approved by the Chief Purchasing Officer and the City Solicitor.
2. City Council authorize the General Manager, Transportation Services to delegate these functions and authority to Transportation Services staff as necessary.

## **FINANCIAL IMPACT**

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There are no financial implications resulting from the adoption of the recommendations contained in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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City Council, at its meeting held on March 6, 7 and 8, 2001, considered a report from the Commissioner of Works and Emergency Services (WES) and City Solicitor concerning the length of time it takes the City to execute contracts after they have been awarded through the tender or quotation process. Consequently, Council granted authorization for the Commissioner of WES (now Engineering & Construction Services) to prepare and arrange for execution of standard form contracts arising from tender or quotation calls or proposals (standard form consultant agreement) and the authority for the Commissioner to delegate such function and authority to staff of the Works and Emergency Services Department as necessary in order to reduce delays in contract execution. The subject Council item is attached to this report.

At its meeting on April 1, 2 and 3, 2014, City Council adopted Report GM28.4 which authorized the Chief Corporate Officer to prepare and approve "as to form" all standard form contracts for the purchase of goods and services by the Chief Corporate Officer Organization (CCOO) that have been awarded by a tender process, prior to the execution of such agreements by appropriate City officials, utilizing such standard processes and standard form documents as approved by the Director, Purchasing and Materials Management and the City Solicitor, and also authorized the Chief Corporate Officer to delegate such functions and authority to her staff as necessary. The Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.GM28.4>

City Council on March 31 and April 1, 2016, authorized the Chief Corporate Officer to prepare and approve "as to form" all standard form contracts for the purchase of goods and services, including architectural and engineering consulting services, by the Chief Corporate Officer Organization, that have been awarded by tender, request for proposal, request for quotation, sole source or any other City procurement process, prior to the execution of such agreements by appropriate City officials, utilizing such standard processes and standard form documents as approved by the Director, Purchasing and Materials Management and the City Solicitor, and also authorized the Chief Corporate Officer to delegate these functions and authority to CCO staff as necessary. The Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM10.11>

Engineering & Construction Services and Facilities Management (formerly part of the Chief Corporate Officer Organization) retain this authority to approve "as to form" and administer the execution of agreements today.

## **COMMENTS**

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### **Existing Contract Execution Process for Transportation Services Division**

Approving a contract "as to form" is a reference to the approvals process whereby specific responsible individuals confirm that the document has been prepared under proper City authority and is reflective of that authority. In the case of tenders, for example, the contents of the contract documents are typically already determined by the tender documents issued by the Division with preparation comprising such matters (aside from checking authorities) as the preparation and receipt of the standard form bonds and insurance certificates required by the tender.

In 2006, Engineering & Construction Services (ECS) updated their execution processes and retained their authority to review, prepare, and approve "as to form" all standard form contracts awarded by tender, request for proposal, or request for quotation using the standard agreement contract template under the approval of City's Purchasing and Materials Management Division (PMMD). Similarly, the Chief Corporate Office Organization (now Facilities Management and Real Estate Services) was subsequently also delegated this authority by Council (per 2016.GM10.11 identified above) for the purchase of goods and services, including architectural and engineering consulting services, awarded by tender, request for proposal, request for quotation, sole source or any other City procurement process using the standard agreement contract template and processes as approved by PMMD and the City Solicitor. Therefore, the recommended contracts execution model is currently in use by multiple City Divisions.

Currently, Transportation Services does not have the authority to approve "as to form" the purchase of goods and service contracts on its own behalf. The following outlines the two current paths that Transportation Services follows for its contract execution.

Written agreements are prepared in consultation with and approved "as to form" by Legal Services in accordance with the procedure on Formal Agreements. Transportation Services' staff confirms in writing to Legal Services that the agreement accurately reflects the business requirements as stated in the tender document and

Legal Services confirms that the necessary authority exists and prepares and finalizes the execution of the standard form agreement. Legal Services also prepares and obtains the required bonds or other security, ensures that the required insurance is in place, and ensures that other matters, such as WSIB clearances, are obtained from the Contractor as required under the call documents. Under this process, Legal Services staff approve all agreements by placing an "Approved as to Form" stamp on the agreement and filling in an "authority" stamp on the signing page.

Transportation Services also has an agreement in principle with ECS wherein the latter approves "as to form" contracts on Transportation Services' behalf. In these instances (and representing most contracts), Transportation works with ECS instead of Legal Services for this purpose. Following award, Transportation prepares and provides all related documentation to ECS which administers the execution of purchases of construction, goods and/or service contracts on the behalf of Transportation Services. Pursuant to the agreement in principle between Transportation Services and ECS, under the latter's delegated authority (and per the process above), ECS prepares and approves "as to form" contracts for the purchase of goods and services (including construction) by Transportation Services that have been awarded by tender, request for proposal, or request for quotation prior to the execution of such agreements by appropriate City officials, utilizing such standard processes and standard form documents as approved by the Chief Purchasing Officer and the City Solicitor.

### **Streamlining the Process**

Given the current volume of workload in ECS and Transportation Services, it is estimated that the time to complete the execution of a standard form contract is approximately four to six weeks once the bid has been awarded.

Since Transportation Services Division has restructured to become more functionally organized, including the establishment of a dedicated Business Performance Section, it is the view of Transportation Services that the following efficiencies can be achieved by centralizing the execution of contract purchasing for Transportation Services within its own Division:

- Reduced physical circulation of documentation and review time in the process;
- Ability for Transportation Services staff to establish relative priorities amongst the contracts in need of execution;
- Transportation Services staff are in better position to answer questions concerning the nature of contracts should they arise in the course of circulation; and
- Staff who are accountable for administering the Capital Program will be more responsible for all the steps needed to fulfill the program.

ECS and Legal Services support Transportation Services in its efforts to centralize the administration of contract executions.

It is recommended that the function of preparing and approving "as to form" all standard form contracts for the purchase of goods and services, including construction, by Transportation Services that have been awarded by tender, request for proposal, request for quotation, sole source or any other City procurement process, be transferred

from Legal Services to the General Manager, Transportation Services prior to the execution of such agreements by appropriate City officials, utilizing such standard processes and standard form documents as approved by the Chief Purchasing Officer and the City Solicitor. This delegation of authority would also (in effect) allow Transportation Services to 'take back' the responsibility for these tasks from ECS. This transfer of function would apply to the majority of awarded standard form contracts. For more complex or non-standard contracts, Transportation Services would continue to use Legal Services.

If approved, Transportation Services centralized functional unit staff will be able to review the documents, prepare the standard form contracts, and approve them "as to form" before the City's approved signing officer(s) execute the agreements.

There will be a period of training of Transportation Services staff by Legal Services on the procedures that need to be undertaken to ensure the proper execution of contract documents and the receipt of proper bonds and insurance. Once staff are trained using these processes, an auditing process will be implemented to ensure compliance.

Legal Services will finalize standard instructions for the preparation and execution of standard form contracts and train staff within Transportation Services to provide a transition of the function as soon as possible.

## **CONTACT**

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## **SIGNATURE**

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Barbara Gray  
General Manager, Transportation Services

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Attachment 1 - Execution of Works and Emergency Services Construction and Supply Contracts