



## CITY CLERK

### **Attachment 1: Execution of Works and Emergency Services Construction and Supply Contracts**

Clause embodied in Report No. 2 of the Works Committee, as adopted by the Council of the City of Toronto at its meeting held on March 6, 7 and 8, 2001.

## 6

### **Execution of Works and Emergency Services Construction and Supply Contracts**

*(City Council at its meeting held on March 6, 7 and 8, 2001, adopted this Clause, without amendment.)*

**The Works Committee recommends the adoption of the following joint report (January 25, 2001) from the Commissioner of Works and Emergency Services and the City Solicitor:**

#### Purpose:

To respond to a request of Council at its meeting on October 3, 4, and 5, 2000, asking staff to address the request of the Greater Toronto Sewer and Watermain Contractors Association to reduce the time between contract award and contract execution.

#### Financial Implications and Impact Statement:

There are no direct financial implications arising from the recommendations of this report.

#### Recommendation:

It is recommended that Council authorize the Commissioner of Works and Emergency Services to prepare and "approve as to form" all standard form contracts of the Works and Emergency Services Department and awarded by tender or quotation calls or proposal (standard form consultant agreement) prior to the execution of such agreements by appropriate City officials, and that the Commissioner be authorized to delegate such function and authority to staff of the Works and Emergency Services Department as necessary.

#### Background:

On October 6, 2000, Council considered an information report from the Commissioner of Works and Emergency Services 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. Council directed staff to meet with representatives of the Greater Toronto Sewer and Watermain Contractors Association to discuss ways to expedite the preparation and execution of construction contracts and to report to the Works Committee no later than February 2001. This report describes the contract execution process and outlines a proposed solution to reduce delays.

### Comments:

### Existing Process:

The process that currently exists for executing construction contracts still reflects some of the practices of the former seven municipalities. Some of the former municipalities had an informal process and used the tender documents, award documentation and the Purchase Order as the only legal instruments between the City and the contractor. Other former municipalities had a more formal process for contract execution involving Works staff and law clerks with sign-off by a City lawyer before execution by appropriate City officials. Contract preparation was also complicated by the differing forms and conditions applicable to the various municipalities and which have been the subject of harmonization.

In harmonizing the Works and Emergency Services Department's (WES) contract documentation involved in tender and quotation calls, including the General Conditions, WES has moved towards a standardized process and template for its construction and supply contracts. However, given the varying contract procedures in the former municipalities (and corresponding variance in staff devoted to contract preparation), we have addressed the most efficient use of staff resources in the Legal Department and WES to turn contracts around quickly.

### Improvements to Reduce Delays:

Works and Emergency Services and Legal staff are of the view that, given staff resources, the most efficient means of ensuring quicker turn around of the preparation and execution of contracts is to decentralize the function for those contracts which are routine and template driven (based on standard form agreements prepared by the Legal Department).

This would entail the staff of WES reviewing the tender and quotation call documents, preparing the standard form contracts and "approving them as to form" before the Clerk and Treasurer execute the agreements. Approving as to form is merely an approval by specific responsible individuals that the document has been prepared under proper City authority and is properly reflective of that authority. The contents of the contract documents are typically already determined by the tender documents issued by the Department 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 or quotation call.

The transfer of this function from Legal Services to WES would, in our view, streamline the process leading to execution by eliminating the physical delivery of documents and the time taken in the communications to and from Legal and WES. In addition, the transfer would make the staff who are accountable for building the Capital Program more responsible for all the steps needed to allow the program to be built. This practice, which was in place in the former City of Toronto since 1995, will expedite execution of contracts and should ensure that capital works are constructed as soon as possible following contract award.

This transfer of function would apply to the majority of awarded standard form contracts. For more complex or non-standard contracts, including those arising from a Request for Proposals process, WES at its discretion may wish to continue to use Legal Services to finalize contracts.

There will be a period of training of WES staff by Legal Services on the procedures that need to be undertaken in ensuring proper execution of contract documents and the receipt of proper bonds and insurance. Once staff are trained using the new process, the process will be audited from time to time to ensure compliance.

In addition, Legal and Works will work together to see if the contract documentation itself can effectively be streamlined given the standardization of specifications and the General Conditions, especially with the potential for posting of standard documents on the City's Internet site.

Conclusion:

In order to reduce delays in contract execution, it is being recommended that the function of preparing and arranging for execution of standard form WES contracts arising from tender or quotation calls be transferred from Legal Services to the Commissioner of Works and Emergency Services. The Commissioner and the City Solicitor will work together to finalize standard instructions for the preparation and execution of standard form contracts and to train staff within WES to provide a transition of the function as soon as possible.

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List of Attachments

Execution Process

Attachment  
Standard Contract Execution Process – Existing and Proposed