

Clause embodied in Report No. 1 of the Audit Committee, as adopted by the Council of the City of Toronto at its meeting held on April 14, 15 and 16, 2003.

8**Procurement Processes Review - City of Toronto**

(City Council on April 14, 15 and 16, 2003, adopted this Clause, without amendment.)

The Audit Committee recommends that:

- (1) the report (March 31, 2003) from the Auditor General be adopted;**
- (2) consideration be given to implementing complete recording and retention procedures for the documentation of action during the RFP/RFQ process, including the establishment of a formal meeting process and the recording of minutes of such meetings;**
- (3) the Canadian Content Policy be suspended pending the requested report on the potential repeal of the policy to the Administration Committee;**
- (4) the Commissioner of Corporate Services and the Chief Financial Officer and Treasurer, during the implementation process and in its report to the Administration Committee, include in their implementation documents, those observations and ideas identified in the report (March 31, 2003) from the Auditor General;**
- (5) the Commissioner of Corporate Services and the Chief Financial Officer and Treasurer, in their implementation report, in relation to new technology, give consideration to the control of purchases and inventory via bar code technology.**

Recommendation No. (1) carried on the following division of votes:

Yeas: Councillors Balkissoon, Ford, Jones and Kelly - 4

Nays: Councillor Walker - 1

Recommendation No. (3) carried on the following division of votes:

Yeas: Councillors Balkissoon, Ford and Kelly - 3

Nays: Councillor Jones and Walker - 2

The Audit Committee submits the report (March 31, 2003) from the Auditor General:

Purpose:

This report responds to a request from City Council for a comprehensive review of the City's procurement function. The report identifies areas where procurement and related processes can be further improved. For the most part, it does not provide specific solutions, as some areas have policy implications, require further study, or are dependent on the results of action taken on other issues identified. However, it does provide direction in terms of areas requiring attention, as well as considerations that should be taken into account when addressing the respective issues.

Financial Implications and Impact Statement:

The financial implications resulting from the adoption of this report include one-time costs to effectively implement the action being recommended in a timely manner. One-time costs could include dedicated resources to develop and manage the implementation plan, upfront staff training, as well as potential information technology and systems costs associated with some recommendations.

In addition, addressing the issues identified could require some additional ongoing resources and costs, which will be determined when staff identify the specific action required to implement some of the recommendations, and in the context of potential risks that will be mitigated. Implementation of the recommendations will also result in the streamlining of processes, as well as provide some potential efficiencies and cost savings, the amount of which are not determinable at this time, but which should be taken into account in terms of any additional ongoing resources that might be required.

Recommendations:

It is recommended that:

- (1) the recommendations in the attached detailed report (Appendix A) be adopted, and that the Chief Administrative Officer, Chief Financial Officer and Treasurer and Commissioners take the necessary action to implement the recommendations, accordingly;
- (2) the Chief Financial Officer and Treasurer:
 - (i) appoint a project manager and identify other resources required to oversee and facilitate the implementation of the recommendations in this report; and
 - (ii) report to the Administration Committee by September 2003 with an implementation plan outlining the specific action taken or to be taken, any one time and ongoing funds required to implement the recommendations, and timelines for the action to be taken; and

- (3) the Chief Financial Officer and Treasurer, following the approval of the implementation plan by the Administration Committee in September 2003, report semi-annually to the Audit Committee with respect to the status of the implementation of the recommendations contained in the attached detailed report.

Background:

In November 2001, City Council requested that the Acting Chief Administrative Officer, in conjunction with the City Auditor, conduct a comprehensive review of the purchasing function within the City of Toronto. This review was to include, but not be limited to, the reporting structure of the purchasing function, administrative procedures and safeguards, quality control measures, purchasing for larger items done by the City's Special Purpose Bodies, amendments to the Purchasing by-law if necessary, and the issuance of payments in a timely manner. This report responds to that request, as well as other requests received from City Council in 2001 and 2002 related to the procurement process.

While the Chief Administrative Officer was requested to complete this review in conjunction with my office, the Chief Administrative Officer and I agreed that it would be more appropriate for my office to perform the review, as the review of the purchasing function had already been included in my 2002 audit work plan approved by the Audit Committee.

In completing this review, we held a number of focus group sessions with staff from both operating departments and the Purchasing and Materials Management Division (Purchasing Division), to help us identify strengths and deficiencies in the current processes.

We also conducted surveys of procurement practices in other jurisdictions, researched and identified key success factors related to procurement activities, and reviewed documents and records as we deemed necessary. In addition, an external consultant was engaged by my office to provide advice and guidance on issues identified and potential solutions.

Impact of Toronto Computer Leasing Inquiry

On September 30, 2002, the Toronto Computer Leasing Inquiry commenced. The mandate of this Inquiry is to look into all aspects of leasing contracts for computers and related software between the City of Toronto and MFP Financial Services and between the City of Toronto and Oracle Corporation Canada Inc. In October 2002, City Council voted to expand the Inquiry's mandate to investigate a number of issues related to consultants retained by the City of Toronto and the former City of North York, with respect to the development and implementation of the City's property tax system (TMACS). The Commissioner of both these Inquiries, Madam Justice Denise Bellamy, has been asked to make any recommendations which she may deem appropriate and in the public interest. Accordingly, there may be recommendations that arise from the Inquiries which could impact the City's procurement processes, as well as related policies. The timing of the Commissioner's report and recommendations is not known at this time. It is our view, however, that the development of an implementation plan and action on recommendations in the Auditor General's report should not be delayed, recognizing that some policies or procedures may be revised further once the Commissioner's recommendations are made public.

New Municipal Act Requirements

It should also be noted that Section 271 of the Municipal Act, 2001 requires that municipalities and local boards must adopt policies with respect to the procurement of goods and services before January 1, 2005. The Ministry of Municipal Affairs and Housing is in the process of developing a guide, currently in draft, to assist municipalities and local boards in formulating procurement by-laws. This guide will further assist the City in developing and enhancing its policies and procedures to ensure that the integrity of its procurement processes is maintained.

Comments:

Purchasing activities in the City are administered either by the Purchasing and Materials Management Division or directly by departments.

Purchases under \$7,500 are handled by departments through the issuance of departmental purchase orders. The Purchasing Division is not involved in these purchases, as departments are directly responsible for obtaining quotations from vendors and issuing the departmental purchase order.

Purchases over \$7,500 are administered by the Purchasing Division, based on specifications, requirements and deliverables identified by departments.

The overall legal framework and authorities for procurement activities in the City are governed by the Toronto Municipal Code, Chapters 195, Purchasing and 71, Financial Control, as well as policies adopted by Council from time to time.

It is important to note that the review of the purchasing function in the City is not a review of the Purchasing and Materials Management Division alone. Departments are involved in various aspects of the procurement process, such as planning their need for goods or services, developing specifications, performing evaluations on bids or proposals received, and making recommendations on contract awards. Consequently, departments play a key role in the overall success of procurement activities and processes, and the implementation of some of the recommendations in this report will, therefore, require action and co-operation on the part of departments in order to successfully achieve the changes required.

Key Success Factors

In conducting our review, we identified the following factors as being critical to successfully achieve cost-effective and efficient procurement processes in the City, and ensure that the integrity of these processes is maintained:

- Clear roles, responsibilities and accountabilities
- Effective organizational structure and resources
- Knowledgeable and competent staff

- Effective performance indicators
- Simple, clear and concise by-laws, policies and procedures
- Fair, open and transparent processes
- Efficient and cost effective processes
- Effective contract management controls

Overall Assessment of the Procurement Process

Our review found that there is a lack of clarity around roles and responsibilities between the Purchasing Division and departments, as well as who is ultimately accountable for decisions at various points in the procurement process. This combined with a lack of clear and simple purchasing procedures for each type of procurement process has resulted in delays in the procurement of goods and services, as well as a high level of frustration on the part of Purchasing and departmental staff. It also exposes the City to the risk that proper processes may not be followed consistently by all staff.

The Purchasing and Materials Management Division has been effective in ensuring departments comply with applicable City policies and bylaws. While the Purchasing Division should continue to ensure that due process is followed, it must also become more customer service oriented, by being more responsive to departmental needs. Departments can also contribute to the timely procurement of goods and services by better identifying and planning their procurement needs.

A high staff turnover rate since amalgamation has caused the Purchasing Division to lose procurement expertise and knowledge of departmental operations, and has impacted the Division's ability to be more responsive to departmental needs. The Purchasing Division is currently working with the City's Human Resources Division to address the Division's ability to retain and recruit qualified staff.

The current Toronto Municipal Code, Chapter 195, Purchasing and Chapter 71, Financial Control is, for the most part, comprehensive in terms of the responsibilities and legal authorities delegated to staff. However, there is a need to further refine and clarify some areas of the by-laws.

The current procurement practices are very labour and paper intensive. For the most part, a standard approach is used that does not take into account the risk, dollar value, and nature of good or services being procured to determine the level of formality and competition required. There is, therefore, a need for more cost-effective and value-added procurement processes, based on risk and other factors.

In general, the City's procurement processes are open, fair and transparent. There is a need, however, to enhance, reinforce and formalize certain procurement practices, particularly with respect to request for proposals, to ensure that they are understood and applied consistently across the City.

Initiatives Implemented to Date by Management

It should be noted that since amalgamation, management has established a number of policies and initiatives to better ensure that the City conducts its affairs in a fair, open and transparent manner. These initiatives include:

- Code of Conduct Policy for Members of Council
- Conflict of Interest Policy for City staff, as well as the distribution of the Conflict of Interest Policy to suppliers on the City's Bidders List and new suppliers
- Lobbyist Disclosure Policy and voluntary lobbyist registry
- Fraud Policy and a Fraud and Waste Hotline
- Information Technology Acquisition Process
- Ethics Steering Committee
- Policy for the Selection and Hiring of Professional and Consulting Services
- Purchasing Division's Web site which provides purchasing related information and by-laws

Action Required to Improve Procurement Processes

Notwithstanding the above noted initiatives, our review has identified areas where action is required to further improve procurement processes in the City. These are summarized below by key success factor. A detailed report which includes our observations, conclusions and recommendations is attached as Appendix A to this report. A summary of our recommendations and management's response is provided in Appendix B.

Clear Roles, Responsibilities and Accountabilities

- Establish clear responsibilities and accountabilities of the Purchasing and Materials Management Division and departments for each step in the procurement process, as well as consequences for non-compliance, and take the necessary action to ensure that staff are aware and understand the requirements and their respective responsibilities.
- Develop "Service Level Agreements" between the Purchasing and Materials Management Division and departments, that clearly define service standards, turnaround times, roles and expectations.

Effective Organizational Structure and Resources

- Revisit the organizational structure of the Purchasing and Materials Management Division, once the roles and responsibilities of the Purchasing Division and departments have been clearly defined, to ensure that the Division is properly structured to effectively meet its program objectives and, in particular, its customer service role.

- Clarify and confirm the roles and responsibilities of Purchasing Division staff, and determine the type, mix and number of positions required to achieve the Division's business objectives.
- Expedite the review of the City Stores operation to determine whether there are opportunities to further rationalize the nine locations currently operated by the Purchasing and Materials Management Division, taking into account the impact from the introduction of purchase cards and the increased use of blanket contracts to meet departmental needs. The rationalization review should also consider the over 80 locations managed by departments.

Knowledgeable and Competent Staff

- Identify the skill set and expertise required by Purchasing Division staff, and upgrade the knowledge, expertise and customer service skills of staff, as necessary.
- Determine the causes for the high staff turnover rate in the Purchasing Division, and take necessary corrective action.

Appropriate Performance Indicators

- Develop additional results oriented performance indicators to measure the achievement of the Purchasing Division's program objectives, including customer and supplier satisfaction, procurement cycle times and cost savings.
- Develop benchmarks and indicators to effectively measure the success of initiatives recommended in this report.

Simple, Clear and Concise By-laws, Policies and Procedures

- Clarify and revise the Toronto Municipal Code (Chapter 195, Purchasing and Chapter 71, Financial Control), as necessary, with respect to:
 - the delegation of department head authority for emergency purchases;
 - the authorities for contract awards, in particular multi-year contracts and those that straddle from one year to another;
 - any appropriate revisions to the extent of department heads' authority to approve over-expenditures for contracts under \$500,000;
 - the approval requirements for over-expenditures on operating contracts;
 - the parameters under which department heads can authorize additional expenditures under a contract to deal with unforeseen circumstances on a particular project, or to take the necessary action to complete a contractor's unfulfilled obligations in a timely manner; and

- the types of expenditures (e.g., contributions to joint research studies or other initiatives) that do not require a purchasing document to enable payment, along with any appropriate parameters and limitations in this regard.
- Expedite the development of the Purchasing Manual, and ensure that it includes clear procedures and guidelines for each type of procurement process to support the Purchasing and Financial Control by-laws and guide staff.
- Ensure necessary training is provided to departmental staff on procurement by-laws, policies and procedures, such that staff are aware of, understand and comply with the various requirements.
- Re-visit the rationale for the City's Canadian Content Policy and consider the repeal of this policy.

Fair, Open and Transparent Processes

- Ensure call and request documents are clear with respect to critical information requirements and situations under which bids and proposals will be declared informal.
- Develop a standard template for bid submissions to facilitate the location of mandatory documentation at bid opening, and formalize the protocol with respect to how mathematical errors in bid submissions will be treated.
- Develop a policy of "no informal contact" between staff and representatives of proponents or bidders during the procurement process, and establish guidelines for staff with respect to proper conduct and limitations for communication and contact with proponents and bidders.
- Develop guidelines and directives, as necessary, to ensure that: call/request methods used are appropriate; evaluation processes, including the methodology and knowledge/expertise of the evaluation team are reflective of the nature, complexity and dollar value of project; and transparency is maintained throughout the process.
- Require that Purchasing Division staff be involved in the evaluation process for projects above a dollar threshold limit or based on other criteria as determined by the Chief Financial Officer and Treasurer, to provide guidance on the process and ensure due process is followed.
- Require evaluators, including consultants, to sign a conflict of interest declaration, certifying that he or she performed the evaluation in a fair and objective manner, free from undue influence, and disclosing any entertainment, gifts or other benefits received from proponents or their representatives.
- Post the result of all contract awards (RFP, RFQ, Tenders) on the City's Web site.
- Develop procedures to ensure key information is included in contract award reports, and develop a standard template that clearly presents information to committees and Council.

- Assess the cost and benefits for the use of an independent “Fairness Commissioner” (external consultant), on an as-required basis, to shadow and attest to the fairness of the bid or proposal process for complex and high profile projects.

Efficient and Cost Effective Processes

- Expedite the implementation of a Purchasing Card program to streamline the procurement of low dollar value goods and services.
- In conjunction with departments, define the roles and responsibilities in relation to blanket contracts, and expand the use of blanket contracts to cover a broader spectrum of goods and services, including emergency services, so as to reduce the need to go through the Purchasing Division for every transaction and/or the need to single source.
- Discontinue the practice of mailing out bid request documents to suppliers and instead enable the downloading of these documents from the City’s Web site.
- Revisit the purpose of the City’s Bidders List and determine the costs and benefits of maintaining the List in its current form, as well as any revenue implications.
- Develop criteria to guide Purchasing Division staff in the use of less formal procurement processes, taking into account the method used to solicit bids (i.e., phone, fax, e-mail), the number of bids solicited and time given to suppliers to respond, particularly for straightforward, low dollar value purchases where it may not be cost effective to go through a formal and full competitive process.
- Ensure departments better plan their procurement needs, taking into account the time required to complete each component of the process, including the review and reporting requirements, and communicate the nature and expected timing of their requirements to the Purchasing Division and City Legal, such that they can schedule their resources to meet the departments’ timelines.
- Reduce single source purchases (that is, purchasing from a particular vendor without soliciting other bids) through better planning and use of blanket contracts, and develop a list of sole source goods and services (that is, those procurements that are unique to a particular vendor and cannot be obtained from another source) that can be processed without completing a sole (single) source request form.

Effective Contract Management Controls

- Develop guidelines and criteria to assist departments in determining when a formal contract is required, and develop a standard contract template to be used and executed by departments for straightforward, low risk purchases.
- Clarify and confirm the rationale, responsibilities and expectations for contract signatories, and develop mechanisms and clear responsibility for ensuring the decisions of the Bid Committee, Standing Committees and Council are accurately reflected in purchase order or contract, and that the necessary authority exists to enter into the commitment.

- Develop guidelines with respect to when bid bonds and performance bonds are required, as well as the dollar value required.
- Ensure effective mechanisms exist to prevent contracts from being exceeded. In this regard, the requirement that departments process contract release orders to track payments against the respective contract should be examined in terms of the staff resources needed by departments to fully implement this requirement. In addition, other options to monitor payment against contracts should be explored.

Other Issues

In addition to reviewing current procurement processes, my office was also requested to report on any special authorities that should be provided to the proposed Water and Wastewater Committee, and on the payment of accounts by the City.

Proposed Water and Wastewater Committee

Action on the recommendations in this report should help to streamline purchasing processes in the City. In addition, the current commitment authority limits give the Bid Committee and standing committees the ability to award contracts to the lowest bidder meeting specifications for up to \$2.5 million and \$5 million respectively. As such, the proposed Water and Wastewater Committee should be delegated the same level of contract award and procurement authority as other standing committees in the City.

Payment of Accounts

The timely payment of accounts, which has been a problem in the City since amalgamation, reflects negatively on the City and has impacted the City's relationship with certain suppliers. While action taken to date has resulted in some improvement, the payment of accounts within a reasonable timeframe continues to be a significant issue that must be addressed by the Chief Financial Officer and Treasurer as a high priority item.

Conclusions:

This report provides an assessment of the City's procurement processes and identifies areas that require attention.

Procurement processes in the City require co-operation between the Purchasing Division and departments, and must be applied within a clear policy framework that is supported by sound business principles, where roles and accountabilities are clearly defined and understood. Maintaining and ensuring the integrity of the process is paramount. At the same time, it must be recognised that it is not necessarily cost-effective or value added to apply standard processes and rules to all transactions, and that as a result, some level of professional judgement must be exercised and less formal processes used for some type of transactions. The overall goal should be to purchase goods and services that meet departments' operational needs, at the best value and as cost-effectively and expeditiously as possible, within an effective control framework that promotes accountability, ensures transparency, and is based on risk.

Staff understanding and buy-in to the core values and principles of the City's procurement processes is critical. Effective procurement activities are dependent on establishing a corporate environment, where roles, responsibilities and accountabilities are clearly defined and understood. In order to promote compliance, it is important that staff are not only aware of the rules, but also understand the rationale behind the rules, as well as the consequences associated with non-compliance.

The recommendations in this report address the need to streamline current processes, expedite initiatives in progress or on hold, and to clarify, reinforce and formalize current practices and policies. While various action has been recommended, priority areas include:

- The need to clearly define and assign roles, responsibilities and accountabilities for each step in the procurement process, and ensure appropriate mechanisms exist to mitigate risks in the procurement process and promote compliance.
- The need to clarify and revise the Purchasing and Financial Control by-laws, as appropriate, and to expedite the development of the Purchasing Manual to support the by-laws by providing simple, easy-to-understand guidelines and procedures for each type of procurement process. The requirements of the Municipal Act, 2001 and related procurement guidelines to be issued by the Ministry of Municipal Affairs and Housing, will assist in this regard.
- The need to address the Purchasing Division's high staff turnover rate, ensure Purchasing Division staff have the necessary expertise and skills to carry out their customer service responsibilities, and that all staff with procurement responsibilities receive the necessary training to upgrade their knowledge and understanding of procurement policies, procedures, processes and requirements.
- The need to implement mechanisms to streamline current procurement processes by expediting the use of purchase cards, expanding the use of blanket contracts and making greater use of information technology, as well as developing criteria to guide Purchasing Division staff in using less formal procedures for certain purchase transactions.
- The need to revisit the organizational structure of the Purchasing and Materials Management Division, including the number, type and mix of positions required to meet its program objectives.

Successful implementation of the recommendations in this report will require significant time and effort. Staff can not be expected to carry out their day to day duties and, at the same time, work on implementing the recommendations in this report. Consequently, if action on the recommendations is to occur in a timely manner, then dedicated resources must be assigned to oversee and implement the action required. Appointing a project manager to develop an implementation plan and oversee the implementation, as well as the assignment of specific resources to deal with training, legal, information technology and other requirements, is strongly recommended.

It is also important that Council be apprised of the progress made and action taken on each of the recommendations, through semi-annual status reports.

Finally, while various recommendations can be made to improve and strengthen policies and processes, the overall success of implementing the changes required will, to a large extent, be dependent on the commitment provided by senior management, as well as by City Council in allocating the necessary financial resources to effectively implement the recommendations.

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Appendix A

Procurement Processes Review

City of Toronto

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March 31, 2003

Executive Summary

This report responds to Toronto City Council's request for a comprehensive review of purchasing processes within the City.

The objectives of the review were to assess the procurement function in the City to determine whether the various activities, processes and policies are fair, open, transparent, cost-effective and value added. The review looked at:

- the organizational structure of the Finance Department's Purchasing and Materials Management Division (Purchasing Division);
- the roles and responsibilities of the Purchasing Division and operating departments in the procurement process;
- the adequacy of the Purchasing and Financial Control by-laws;
- the integrity, efficiency and cost effectiveness of the procurement process; and
- administrative controls and management information.

In conducting this review, we held a number of focus groups sessions with staff from both operating departments and the Purchasing Division. This approach was important in terms of identifying issues and opportunities for improvement. In addition to consulting with staff, we also conducted surveys of procurement practices in other jurisdictions, researched and identified key success factors related to procurement activities, and reviewed documents and records as we deemed necessary.

It is important to note that this was not a review of the Purchasing Division alone, but rather a review of procurement activities in general. While the Purchasing Division plays an important role in purchasing goods and services in the City, it is not the only player in the overall procurement process. Departments also play a key role in the process, which stretches from identifying and planning requirements to the evaluation and award of contracts.

The City of Toronto operates a number of programs across the City that deliver a variety of services to the public. The diversity of services offered and the different operating needs of departments, makes the development of standard procurement policies and the delivery of effective procurement services a challenging task. It is therefore essential that the procurement by-laws and policies are supported by key values and principles that staff understand and can default to in those instances where professional judgement must be exercised. It is also important that appropriate controls are imposed on the overall process to enhance transparency, openness and accountability with respect to procurement decisions, particularly where the decisions fall outside the standard rules or are somewhat subjective in nature.

Over the last three to four years, management has established and City Council has adopted a number of policies and implemented various initiatives to strengthen procurement processes and better ensure that the City conducts its affairs in a fair, open and transparent manner. These policies and initiatives include:

- Code of Conduct policy for members of Council
- Conflict of Interest policy for City staff, as well as the distribution of this policy to City suppliers
- Lobbyist Disclosure Policy and voluntary lobbyist registry
- Fraud Policy, as well as a Fraud and Waste Hotline
- Information Technology Acquisition Process
- Policy for the Selection and Hiring of Professional and Consulting Services
- Purchasing Division's Web site, that provides purchasing related information and by-laws

In addition to the above, our review has identified other areas to further improve the City's procurement processes. These are discussed below.

For procurement processes to be effective there must be co-operation, as well as an understanding of and a commitment to the various components of the process on the part of both the Purchasing Division and departmental staff.

Our review found a lack of clarity with respect to roles, responsibilities, and requirements that must be adhered to in the various procurement processes. This has contributed to unnecessary delays in the procurement of goods and services, frustration on the part of Purchasing and departmental staff, and an unproductive use of staff time. It also exposes the City to the risk that proper processes may not be followed consistently by all staff. There is therefore a need to clarify the respective roles and responsibilities of the Purchasing Division and departments, and assign clear accountability for each component in the procurement process. By-laws and policies must also be clear, simple, practical, easy-to-understand and communicated to all applicable staff. In this regard, certain parts of the City's purchasing and financial control by-laws require clarification or amendment. In addition, clear guidelines and procedures need to be developed to guide staff, and necessary training provided, to ensure staff understand the requirements for each type of procurement process.

The City's Purchasing Division has a difficult task of performing a dual function of service and control. The Division provides service and advice to departments, ensures due process is followed, and brings non-compliance matters to the attention of the respective departmental senior manager or department head. It is, however, the department heads' responsibility to ensure procurement policies are understood and adhered to by their respective staff, and that checks and balances exist to prevent and detect non-compliance.

Our focus group sessions found that departments view the Purchasing Division staff as transaction oriented, and as enforcers instead of facilitators. Recent events involving certain City contracts have understandably heightened this behaviour on the part of the Division. The Purchasing Division has advised that because of the lack of clarity as to who is responsible for enforcing policies and by-laws, it has fallen on the Purchasing Division to ensure compliance and as a result, its customer service role has suffered.

While process oversight is an essential component in the overall procurement process control framework, effectively servicing and facilitating the procurement needs of departments within a well-defined and clear policy/process framework is an equally important role for the Purchasing Division. The importance of departmental co-operation in this regard must also not be overlooked, as operating departments can facilitate and assist Purchasing in providing efficient customer service by properly planning and identifying the nature, specifications and timing of their goods and services needs.

The current commodity-based organization structure of the Purchasing Division was recommended by an outside consultant after amalgamation, and was approved by the Chief Administrative Officer and Executive Management Team at the time. Since that time, the City has evolved and harmonized many of its operations, and conditions and expectations have changed. It would therefore be appropriate to revisit the Purchasing Division's organizational structure to determine whether other models would be more effective in enhancing customer service and meeting the Division's mandate, taking into account the diverse operational needs and requirements of departments, and with the benefit of experience since amalgamation.

Since amalgamation, the Purchasing Division has experienced a high rate of staff turnover. This high turnover combined with difficulties in recruiting qualified purchasing professionals, has resulted in the Division losing significant procurement experience and expertise, which it has not been able to effectively replace. The Purchasing Division is working with the City's Human Resources Division to address this problem. However, in addition to retaining and recruiting qualified staff, the Purchasing Division must also ensure its current staff has the necessary knowledge and expertise to effectively enable the Division to carry out its customer service, advice and oversight responsibilities. In this regard, skills gaps should be identified and the necessary training provided.

The Purchasing Division's current processes are very labour and paper intensive. There are therefore opportunities to streamline some of the processes and improve customer service. The introduction of purchase cards to facilitate the purchase of low value items, while resulting in some additional work for the Purchasing Division to manage the program, would reduce the number of departmental purchase orders issued as well as related administrative and accounts payable requirements. Expanding the use of blanket contracts to meet both corporate and department specific needs, and establishing parameters and criteria to assist Purchasing staff in using less formal procurement processes, would also contribute to the more timely and efficient provision of goods and services to departments. In addition, making greater use of information technology to enable suppliers to download call and request documents off the City's internet Web site, would help eliminate the current paper intensive processes.

The Purchasing Division currently operates nine stores across the City that supply various supplies and equipment to departments. The cost (\$2.1 million) to operate these stores appears high in relation to the value of goods (\$8.9 million) that flow through the stores to departments. In addition to the nine stores operated by the Purchasing Division, there are over 80 other locations, managed by City departments that also stock various materials and supplies. There is a need to review and rationalize the City stores operation, particularly if purchase cards are implemented and the use of blanket contracts is expanded. In this regard, we agree with staff's position that any rationalization review should also include the over 80 stores operated by departments. The Chief Financial Officer and Treasurer has been requested to report to the Administration Committee on the rationalization of City stores, and should include the stores operated by departments in the review.

Maintaining fair and transparent procurement processes are critical to protecting the integrity of and public confidence in the processes. Transparency means that City Committees and Council are provided accurate and complete information to allow for proper consideration of procurement transactions that they are expected to approve. Transparency also requires that each step in the procurement process is properly documented and retained such that it allows for and can withstand scrutiny by the public and other parties independent of the transaction or process. Clear guidelines for staff, supported by advice from Purchasing Division staff as appropriate, would help promote compliance with this important requirement. As a general rule, the greater the subjectivity in conducting an evaluation and making a decision, the more transparent the process must be and the more important conflict of interest and code of conduct become. As previously mentioned, the City has developed a number of policies to ensure the City conducts its affairs in a fair, ethical and transparent manner. However, there is a need to reinforce and formalize some current practices to ensure staff understand and apply the requirements consistently across the City.

The purchasing and financial control by-laws delegate certain authorities, within prescribed limits to staff, the bid committee and standing committees. Transparency with respect to decisions that Council has delegated to staff, could be enhanced by having the Purchasing Division report to Council annually on, among other things, single source purchases over \$7,500 that did not go through a competitive process, single source purchases as a percentage of total purchases, and all instances where purchase orders have been issued after the fact.

The City is currently considering the appointment of an integrity commissioner to further enhance integrity in its processes and investigate complaints. In addition, the use of an external consultant (fairness commissioner), on an as-required basis, to shadow the bid process for certain large, high risk and/or complex request for proposals, quotations or tenders, could provide senior management and Council with an increased level of assurance on the fairness of the process. The cost and benefits of using outside expertise for this purpose, and the criteria for determining when this expertise should be engaged, should be explored further.

Finally, it is important that appropriate results based performance indicators be established to measure the performance of the Purchasing Division in carrying out its program objectives on an ongoing basis, as well as establishing appropriate benchmarks to measure the success of the implementation of action recommended in this report.

The recommendations in this report address the need to streamline current processes, expedite initiatives in progress or on hold, and clarify, reinforce and formalize current practices.

On September 30, 2002, the Toronto Computer Leasing Inquiry commenced. The mandate of this Inquiry is to look into all aspects of leasing contracts for computers and related software between the City of Toronto and MFP Financial Services and between the City and Oracle Corporation. In October 2002, City Council voted to expand the Inquiry's mandate to investigate a number of issues related to consultants retained by the City of Toronto and the former City of North York, with respect to the development and implementation of the City's property tax system (TMACS). The Commissioner of both these inquiries, Madam Justice Denise Bellamy has been asked to make any recommendations which she may deem appropriate and in the public interest. Accordingly, there may be recommendations that arise from the Inquiries that could affect the City's procurement processes, as well as related policies. The timing of the Commissioner's report and recommendations is not known at this time. It is our view, however, that the development of an implementation plan and action on recommendations in the Auditor General's report should not be delayed, recognizing that some policies or procedures may be revised further once the Commissioner's recommendations are made public.

Successful implementation of the recommendations in this report will require significant time and effort. Staff cannot be expected to carry out their day to day duties and at the same time, work on implementing the recommendations in this report. Consequently, if action on the recommendations is to occur in a timely manner, then dedicated resources must be assigned to oversee and implement the action required. Appointing a project manager to develop an implementation plan and oversee the implementation, as well as the assignment of specific resources to deal with legal, information technology and other requirements, is strongly recommended.

Recommendations:

It is recommended that:

1. The Chief Financial Officer and Treasurer, in consultation with Commissioners, develop service level agreements for the procurement process:
 - (i) that clearly define the roles, responsibilities, authorities and accountability of the Purchasing and Materials Management Division and departments for each step in the process, including the responsibility for ensuring compliance with the various policies;
 - (ii) that outline the standards and expectations, with respect to the level of service, turnaround time and lead time required; and
 - (iii) ensure such requirements are communicated and understood by all applicable staff, and the necessary training is provided to staff in this regard.
2. The Chief Financial Officer and Treasurer and Commissioners ensure that:
 - (i) appropriate controls are in place to effectively mitigate the risks in the procurement process;
 - (ii) mechanisms exist to prevent and detect situations of non-compliance;
 - (iii) all applicable staff understand and are aware of their roles and responsibilities, and requirements that must be followed in the respective procurement process, as well as the consequences for not meeting their responsibilities or adhering to policies and procedures; and
 - (iv) compliance with procurement procedures is incorporated into the staff performance review process.
3. The Chief Financial Officer and Treasurer, in consultation with the Commissioner of Corporate Services, report to the Administration Committee by January 2004 on any revisions to the organizational structure of the Purchasing and Materials Management Division, such report to include:
 - (i) an examination of the various organizational structure models;
 - (ii) a determination as to whether the Client Services group of the Purchasing and Materials Management Division should be merged with the Purchasing Services Unit; and
 - (iii) clarification of the roles and responsibilities of each unit, the number, type and mix of positions required, and any resulting resource implications.

4. The Chief Financial Officer and Treasurer, in his report to the Administration Committee on the rationalization of all City stores, take into account:
 - (i) what materials, supplies and equipment should be stocked in City stores, including those operated by departments;
 - (ii) the impact of the use of procurement cards and the increased use of blanket contracts to supply goods currently stocked by City Stores;
 - (iii) the impact on staff levels;
 - (iv) the opportunity costs of land and building on which the current stores are located, as well as funds tied up in inventory; and
 - (v) the overall benefits and cost savings resulting from the rationalization of the City stores operation.
5. The Chief Financial Officer and Treasurer, in consultation with the Commissioner of Corporate Services:
 - (i) identify the skills and expertise required by Purchasing and Materials Management Division staff to effectively meet the Division's business and customer service objectives;
 - (ii) assess the skill set and competency level of current staff;
 - (iii) develop a training and development program that ensures staff have the necessary customer service and technical expertise to effectively perform their responsibilities; and
 - (iv) determine the causes of the Purchasing and Materials Management Division's high staff turnover rate, and take the necessary corrective action to remedy this problem.
6. The Chief Financial Officer and Treasurer develop:
 - (i) results based performance indicators for the Purchasing and Materials Management Division that measure the results and effectiveness of its activities; and
 - (ii) benchmarks to measure the success of the implementation of the recommendations in this report.
7. The Chief Financial Officer and Treasurer:
 - (i) expedite the development of a Purchasing Manual, develop clear and concise procedures to guide both the Purchasing Division and departmental staff in each type of procurement process, and ensure that the requirements of the Municipal Act, 2001 are incorporated into the City's Municipal Code and policies, as required;

- (ii) in conjunction with Commissioners, ensure that the procedures and guidelines are communicated to all staff with procurement responsibilities, and that the necessary training is provided, such that staff are aware of, understand and comply with the requirements;
 - (iii) develop a process to periodically review and update the Toronto Municipal Code chapters 71 (Financial Control) and 195 (Purchasing), as well as purchasing policies and procedures as required; and
 - (iv) incorporate procurement procedures/guidelines, applicable forms and “Frequently Asked Questions and Answers”, for each type of procurement process on the Purchasing Division’s Web site.
8. The Chief Administrative Officer, in consultation with the City Solicitor, the Chief Financial Officer and Treasurer and Commissioners, review and make the necessary revisions to the Toronto Municipal Code and/or policies to clarify the following:
- (i) the appropriate level of delegation for emergency purchases, below the Commissioner level, as well as any conditions or parameters for such delegation;
 - (ii) the authorities required for the award of multi-year contracts and contracts that straddle from one year to another, for both capital and operating expenditures;
 - (iii) any appropriate revisions to the extent of Commissioners’ authority to approve over-expenditures for contracts under \$500,000, and the necessary reporting requirements;
 - (iv) the approval requirements for over-expenditures pertaining to operating contracts;
 - (v) the parameters and criteria under which the Commissioners should be able to authorize additional expenditures under a contract as a result of unforeseen circumstances or conditions, or to take the necessary action to complete a contractor’s unfulfilled contractual obligations in a timely manner, including any after the fact reporting requirements in this regard; and
 - (vi) the types of expenditures that do not require a purchasing document to support payment to the respective organization, including any appropriate parameters or limitations relating to these expenditures.
9. Commissioners, in consultation with the Chief Financial Officer and Treasurer, revise their respective delegation of financial signing authority schedules, such that requests to increase the previously authorized dollar value on purchase orders and contracts, requires the approval of the original authorizer’s immediate manager as soon as the additional work required becomes known.
10. The Chief Financial Officer and Treasurer report to the Administration Committee on the potential repeal of the Canadian Content Policy, and any related implications.

11. The Chief Financial Officer and Treasurer, in consultation with the City Clerk, develop a composite report format, by September 2003, for the award of contracts by the Bid Committee.
12. The Chief Financial Officer and Treasurer develop a dollar threshold limit above which responses to Request for Quotations must be opened by the Bid Committee.
13. The Chief Financial Officer and Treasurer:
 - (i) verify on a random basis, mathematical extensions on tenders received, regardless of whether the department identified an error or not;
 - (ii) in consultation with the City Solicitor incorporate in the Purchasing Manual, as well as in all call/request documents, the protocol and policies for the correction of mathematical errors contained in supplier submissions and how tenders and bids with mathematical errors will be treated;
 - (iii) communicate with vendors on a regular basis, to emphasize the importance of ensuring bids are accurate and complete, and include all mandatory information, monitor bids and proposals received for any error patterns, and, in consultation with the City Solicitor, determine whether any protocol or mechanisms can be implemented to deal with problematic vendors;
 - (iv) develop a standard template for bids/proposals, such that the location of mandatory documentation and information at bid openings is facilitated; and
 - (v) in consultation with the City Solicitor, review the call/request documents such that critical information requirements and consequences for non-compliance are clear, in particular those situations under which a bid/proposal will be declared informal.
14. The Chief Administrative Officer:
 - (i) develop a policy that formalizes the requirement to prohibit consulting firms who were involved in preparing the call/request from bidding on the respective project; and
 - (ii) ensure this requirement is communicated to all applicable staff and vendors.
15. The Chief Financial Officer and Treasurer, in consultation with Commissioners, ensure that all City staff involved in the procurement process have the knowledge and are properly trained to manage and participate in the process, and develop directives and guidelines such that:
 - (i) call/request methods used are appropriate, an effective evaluation methodology is designed for all requests, that the evaluation is performed by more than one person, as appropriate, that the composition, knowledge and expertise of the

evaluation team is reflective of the complexity and dollar value of the assignment, and that outside expertise is retained as required for complex and high risk procurement transactions, to ensure that a sound business decision is made and properly justified;

- (ii) the proposal evaluation criteria are disclosed in the request document, the relative weights are pre-determined and documented, that price be assigned a minimum weight of 25 per cent, consistent with the City's Hiring and Selection of Consulting Services Policy, and that criteria be developed for any exceptions to these requirements;
 - (iii) the Purchasing and Materials Management Division is involved, in proposal evaluations for those projects above a pre-determined dollar threshold limit or based on other criteria, as determined by the Chief Financial Officer and Treasurer, to monitor, provide guidance and ensure due process is followed;
 - (iv) proposal evaluations are performed independently and that each evaluation team member, whether a staff member or an outside consultant, is required to sign a conflict of interest declaration:
 - disclosing any entertainment, gifts, or other benefits, in cash or in kind, received from proponents or their representatives;
 - certifying that he or she conducted the evaluation in a fair and objective manner, and free from any conflict of interest or undue influence;
 - (v) the Chief Financial Officer and Treasurer develop a policy of "no informal contact" between department staff involved in the procurement process and the potential suppliers, and establish guidelines to assist staff in determining proper conduct and limitations with respect to communication and contact with potential suppliers; and
 - (vi) the City's call/request documents stipulate that staff directly or indirectly involved in the evaluation and decision making process are not permitted to accept any gifts, entertainment or other benefits, and that the supplier's bid/proposal may be rejected if it fails to comply with this requirement.
16. The Chief Financial Officer and Treasurer, in consultation with the City Clerk, report to the Administration Committee on the level of documentation required to support procurement decisions and the responsibility for the retention of such documentation.
17. The Chief Financial Officer and Treasurer post the results of all contract awards, which exceed the Departmental Purchase Order limit, on the City's Web site, including appropriate information on all bids and proposals received.
18. The Chief Financial Officer and Treasurer develop a template for contract award reports that clearly presents key information to committees and Council, including information such as:

- the bid/proposal solicitation method
- evaluation criteria, including weight assigned to each factor
- composition and technical knowledge of evaluation team
- justification for contract award
- length of the contract, including any renewal options
- total value of contract
- total value of any contingencies in contract
- key terms and conditions in the contract.

19. The Chief Administrative Officer:

- (i) ensure that City staff sign an annual declaration acknowledging that they understand and agree to the terms and conditions contained in the City's Conflict of Interest policy, as well as the consequences of non compliance;
- (ii) send an annual notice to all City staff reiterating the City's Conflict of Interest policy;
- (iii) on an annual basis, forward the Code of Conduct for Members of Council, Conflict of Interest Policy and the Fraud Policy to the Ethics Steering Committee, requesting their direction on whether these policies are clear and current, and recommend any revisions to Council for approval; and
- (iv) amend the Lobbyist Disclosure Policy such that the policy applies to all City purchases regardless of dollar amount, so that it is consistent with the voluntary lobbyist registry.

20. The Chief Administrative Officer, in consultation with the Chief Financial Officer and Treasurer, report to the Administration Committee by September 2003, on:

- (i) the costs and benefits of using an external consultant (Fairness Commissioner) on certain City projects, to shadow and attest to the fairness and appropriateness of the procurement process;
- (ii) the criteria to be used to determine when an external consultant (Fairness Commissioner) should be engaged; and
- (iii) the reporting relationship for this role.

21. Commissioners:

- (i) identify their procurement needs, including the volumes of goods and services required, specifications and deliverables, and the timing of such requirements; and
- (ii) ensure that this information is communicated to the Purchasing and Materials Management Division and City Legal on a timely basis, allowing for sufficient lead time, such that both the Purchasing and Materials Management Division and City Legal can schedule their respective resources to meet departmental timelines.

22. The Chief Financial Officer and Treasurer:

- (i) post on the City's Intranet a library of previously developed specifications;
- (ii) develop specifications templates and guidelines which provide information to staff on the nature, type and level of detail required for specifications; and
- (iii) establish partnerships with other jurisdictions for the sharing of specifications information.

23. Commissioners, in consultation with the Chief Financial Officer and Treasurer, establish mechanisms in their respective program areas to ensure that specifications and deliverables in Requests for Quotations, Proposals and Tenders, are clear and complete.

24. The Chief Financial Officer and Treasurer:

- (i) ensure that departments are notified of any changes to call/request documents before the request or call is issued; and
- (ii) in consultation with departments, make the determination with respect to any changes to the closing date specified in a call/request document.

25. The Chief Financial Officer and Treasurer review and report to the Administration Committee by September 2003, on:

- (i) discontinuing the practice of mailing out call/request documents to suppliers;
- (ii) utilizing the City's Internet Web site or other electronic tendering services, as appropriate, to advertise contract opportunities with the City, and allow interested vendors to download the call/request document;
- (iii) the purpose, cost and benefits of maintaining a Bidders List in its current form;
- (iv) the cost savings and revenue implications resulting from changes to the current procurement solicitation process; and
- (v) an appropriate and effective communication plan to inform suppliers of any changes to the current procurement solicitation process and requirements.

26. The Commissioner, Corporate Services, take the necessary action to expedite implementation of procurement initiatives that require information technology assistance and support.
27. The Chief Financial Officer and Treasurer establish clear parameters and criteria to guide Purchasing and Materials Management Division staff in using less formal procurement processes to obtain price quotations or proposals, taking into consideration the time given to suppliers to respond to calls or requests, the method by which responses are received, and the number of suppliers from which bids or proposals are solicited.
28. The Chief Financial Officer and Treasurer:
 - (i) expedite the implementation of purchasing cards in City operations, using a phased-in approach;
 - (ii) develop the necessary policies and procedures with respect to the issuance, use and control of credit and purchasing cards, including consequences for misuse of the cards;
 - (iii) in consultation with Commissioners, ensure that necessary training is provided to all departmental staff responsible for the use and management of the purchasing cards; and
 - (iv) report to the Administration Committee by January 2004, on the status of the purchasing card program, including any costs to administer the program and any benefits realized.
29. Commissioners:
 - (i) monitor the use of single source purchases in their respective departments with the view to reducing the need to purchase goods and services without going through a competitive process; and
 - (ii) in consultation with the Purchasing and Materials Management Division, properly plan their requirements in order to reduce the single sourcing of purchases.
30. The Chief Financial Officer and Treasurer:
 - (i) in consultation with Commissioners, develop a list of sole source goods and services (e.g., TTC tokens, utilities, etc.) that can be processed without completing a sole (single) source request form;
 - (ii) report annually to the Administration Committee outlining, by department:
 - all single source purchases exceeding the Departmental Purchase Order limit and reasons therefor;

- percentage of purchase orders processed through the Purchasing Division using single source as justification;
 - all instances where purchase orders have been issued after the fact; and
- (iii) post on the City's Web site, all single source contract awards in excess of \$7,500.
31. The Chief Financial Officer and Treasurer:
- (i) monitor purchasing activity, including Departmental Purchase Orders issued by departments, and work with departments to identify opportunities to consolidate the procurement of common goods and services;
 - (ii) in consultation with departments, be more proactive in identifying potential opportunities to utilize blanket contract agreements for goods and services, to more efficiently meet the needs of departments, including emergency requirements;
 - (iii) further explore opportunities to enter into co-operative purchasing agreements with the City's Agencies, Boards and Commissions, other municipalities, public organizations, and other levels of government.
32. The Commissioner of Corporate Services, in consultation with the Chief Financial Officer and Treasurer, report to the Administration Committee by March 2004 with respect to the effectiveness of the Information Technology Acquisition procedures.
33. The Chief Financial Officer and Treasurer, in consultation with Commissioners, re-establish a Purchasing Client Reference Group to deal with procurement issues.
34. The City Solicitor, in consultation with the Chief Financial Officer and Treasurer, and Commissioners:
- (i) develop criteria and guidelines outlining the circumstances in which a formal contract is required; and
 - (ii) develop a standard contract template to be used and executed by departments for straightforward purchases, and where there is no negotiation involved with respect to the terms and conditions in the bid document.
35. The Chief Financial Officer and Treasurer, in consultation with the City Solicitor develop:
- (i) a corporate policy that outlines when Bid Bonds and Performance Bonds are required and the type of security that is acceptable; and
 - (ii) a process to determine the dollar value of the security requested, taking into account the nature of goods or services to be provided, the magnitude of the contract and the risks involved, to ensure that the interests of the City are adequately protected.

36. The Chief Administrative Officer, in consultation with the City Solicitor:
- (i) clarify the roles and responsibilities of City Legal, the Chief Financial Officer and Treasurer, City Clerk and Commissioners in the contract execution process and ensure that the responsibilities and rationale are clearly communicated to all staff involved; and
 - (ii) develop mechanisms and assign clear responsibility for ensuring the decisions of Bid Committee, Standing Committee and Council are accurately reflected in the purchase order or contract, and that the necessary authority exists to enter into the agreement.
37. The Chief Administrative Officer, in consultation with the Chief Financial Officer and City Clerk, establish a central repository for all contract signing and other procurement authorities delegated to departmental staff.
38. The Chief Financial Officer and Treasurer:
- (i) report to the Administration Committee by September 2003 on the control mechanisms in place or to be implemented to prevent contracts from being over-spent, including the benefits and resource implications of processing contract release orders, both at the dollar value and commodity level, and explore other viable options, such as potential system modifications to achieve this objective; and
 - (ii) develop appropriate interim mechanisms to prevent contracts from being over-spent.
39. The Chief Financial Officer and Treasurer in consultation with Commissioners, identify the procurement information needs of the Purchasing and Materials Management Division and departments, and take the necessary action to cost-effectively obtain the information required, in order to enable the effective management of procurement activities.
40. The Chief Financial Officer and Treasurer:
- (i) in consultation with departments, establish separate blanket contracts for each individual department in accordance with the terms and conditions provided in the master agreement for the respective goods and services; and
 - (ii) establish mechanisms to prevent department specific blanket contracts from being accessed by other departments.
41. The Chief Financial Officer and Treasurer:
- (i) ensure that all purchase orders and contracts issued specify the prices and/or rates to be charged; and

- (ii) request suppliers to provide adequate details on the invoices, specifying the rates/prices charged and goods/services provided.
42. The proposed Water and Wastewater Committee be governed under the Toronto Municipal Code, Chapters 71 (Financial Control) and 195 (Purchasing), and be delegated the same level of contract award and procurement authority as other standing committees in the City.
43. The Chief Financial Officer and Treasurer report to the Administration Committee by July 2003 on:
- (i) a prescribed time line and or standard payment term for the payment of all City accounts; and
 - (ii) action taken or to be taken to ensure that accounts are paid within the prescribed time line, including any changes in processes and resources required.

Background:

Introduction

In 2001, City Council adopted the following motions with respect to reviewing the procurement services in the City:

1. “The Acting Chief Administrative Officer, in conjunction with the City Auditor, report to the January 2002 Administration Committee with a comprehensive review of the Purchasing function within the City of Toronto. This review is to include, but not limited to, the reporting structure of the Purchasing function, administrative procedures and safeguards, establishing a long term view of costs, quality control measures, purchasing for larger items done by the City’s Special Purpose Bodies, amendments to the Purchasing by-law if necessary, and issuing payments in a timely manner.”

(Adopted by City Council at its meeting on November 6, 2001)

2. “The Chief Administrative Officer, in conjunction with the City Auditor, review the City’s purchasing and bid process, including the Bid Committee reporting process and the role of the Purchasing and Materials Management Division, and report to the Administration Committee; such review to consider the complaint sent by D. Crupi & Sons Limited and advise on what controls are in place or being recommended to assure the public that the process is fair and open.”

(Adopted by City Council at its June 2001 meeting)

3. “The Chief Administrative Officer and the City Auditor, during their comprehensive review of the purchasing function within the City of Toronto, determine an efficient and effective monitoring and reporting mechanism for the use of Departmental Purchase Order.”

(Adopted by the Audit Committee, at its meeting held on November 29, 2001)

4. “The City Auditor’s study on procurement, currently under way, address the special procurement needs of Water and Wastewater in the implementation of their capital and operating programs and make recommendations on changes that would provide the appropriate delegated powers to award contracts within the approved capital and operating budgets, such study to include whether the committee needs to have its own purchasing by-law.”

(Adopted by City Council at its meeting held on November 26, 27 and 28, 2002)

While the Chief Administrative Officer was requested to complete this review, in conjunction with the Auditor General, it was agreed that it would be more appropriate for the Auditor General to perform the review, as the review of the purchasing function had already been included in the Auditor General’s 2002 audit work plan approved by the Audit Committee.

Audit Objectives and Scope

The objectives of this review were to assess the City’s practices in procuring goods and services and to determine whether:

- the organizational and administrative framework is effective in supporting the overall procurement activities;
- existing by-laws, policies and written directives are clear and effective;
- current business processes support a competitive process that is open, fair and transparent, such that the interests of both the City and the public are protected;
- the Purchasing and Materials Management Division’s resources are being used cost effectively, balancing the Division’s process/policy oversight role with the provision of value-added procurement services to its clients;
- the Purchasing and Materials Management Division is proactive in discharging its responsibilities and maximizes cost savings to the City by promoting cost effective procurement practices;
- departments properly plan and co-ordinate their purchasing requirements with Purchasing and Materials Management Division to minimize delays and ensure the timely processing of their needs; and
- appropriate mechanisms exist for monitoring and reporting the use of Departmental Purchase Orders by City departments.

In performing this review, audit staff:

- conducted focus group meetings with operating departments and Purchasing and Materials Management Division to identify strengths, weaknesses, constraints and opportunities relating to current procurement processes;

- met with an interdepartmental team, comprised of representatives from operating departments, Purchasing and Materials Management Division, City Legal and the Chief Administrator's Office to discuss issues identified and develop potential solutions;
- conducted a customer service survey of a sample of City vendors;
- surveyed public and private sector organizations in Canada and the United States to identify best and alternative procurement practices;
- engaged the services of an external consultant to provide guidance and advice with respect to potential solutions to issues identified;
- researched materials pertaining to modern procurement principles and best practices; and
- examined sample records and documents, as necessary.

Current Procurement Processes

The Toronto Municipal Code, Chapter 195 (Purchasing By-law) and Chapter 71 (Financial Control By-law), along with various policies (such as Canadian Content, Fair Wage, Policy for the Selection and Hiring of Professional and Consulting Services, Code of Conduct for Council Members, Conflict of Interest, Lobbyist Disclosure) approved by Council, as well as administrative procedures/directives issued by the Purchasing and Materials Management Division (Purchasing Division) from time to time, provide the framework for the conduct of procurement activities in the City.

Currently, departments may procure goods and services costing up to \$7,500, without going through the Purchasing Division, through the issuance of a Departmental Purchase Order (DPO). It should be noted that departments are expected to use DPOs for one-time, small dollar purchases up to \$7,500. Repetitive purchases are to be processed by the Purchasing Division.

Purchases in excess of the \$7,500 Departmental Purchase Order limit are administered by the Purchasing Division using one of three main processes: Request for Quotations; Request for Tenders; and Request for Proposals.

When the award of a contract is expected to be based on the lowest price meeting specifications and requirements, bids are solicited by the Purchasing Division by issuing a public tender for construction projects, and a Request for Quotations for non-construction contracts. Request for Proposals are used when a contract award is not based solely on the price and where there is some latitude in terms of the deliverable or solution offered.

The procurement process generally involves:

- departments developing the specifications and requirements for the goods and services;
- the Purchasing Division incorporating the department's specifications into a formal call document (Request for Quotations or Request for Tenders) or request document (Request for Proposals);

- the Purchasing Division mailing the call or request documents to all suppliers on the City's Bidders' List that provide the particular good or service. Requests for construction tenders are normally advertised in trade magazines and local newspapers, and are not mailed out to suppliers on the Bidders' List;
- the Purchasing Division posting the opportunity on the City's Internet site, with instructions regarding how to obtain a copy of the call/request document and how to obtain further information with respect to the call/request;
- a public opening of the responses to Request for Quotations (bids) and Request for Proposals (proposals) by the Purchasing Division and a public opening of responses to tenders (bids) by the Bid Committee;
- the Purchasing Division summarizing the replies to the call/request and forwarding the bids or proposals received to the department for evaluation and recommendation on award of the contract;
- departments performing an evaluation of the bids and proposals received and submitting their award recommendation to the Purchasing Division; and
- awarding of the contract based on the following limits as delegated by Council:

Contract Amount	Award By:
Up to \$500,000*	Chief Administrative Officer/Department Head/ Director of Purchasing and Materials Management
Up to \$2.5 million*	Bid Committee
Up to \$5 million*	Standing Committee
Over \$5 million	Council

- * in situations where the contract is awarded to the low bid meeting specifications and requirements. Delegated authority for approving consulting type commitments has a more limited level of authority for commissioners.

The Purchasing Division, reporting to the Chief Financial Officer and Treasurer, is responsible for the procurement of goods and services to all City departments, as well as the Toronto Police Service, Exhibition Place and the Toronto Atmospheric Fund. The Division had a staff complement of 106.5 positions in 2002, and a net operating budget of \$5.6 million.

In 2002, \$66.4 million of goods and services were procured directly by departments through the issuance of DPOs (65,487), while the Purchasing Division issued 3,854 Purchase Orders (POs) totalling \$982.5 million on behalf of City departments, Agencies, Boards and Commissions.

Vision and Key Success Factors

The City's Purchasing Division exists to assist program managers in obtaining the goods and services they need to run their operations, as efficiently and effectively as possible. The Purchasing Division also has a role to play in ensuring that procurement processes are fair, open and transparent, and is a key component in the overall control framework by overseeing the process at arms length from departments.

For the Purchasing Division to be effective and value added, it must be innovative, proactive and customer service oriented. In addition, procurement processes must be applied within a clear policy framework that is supported by sound business principles where roles and accountabilities are clearly defined and understood. Further, because the application of the standard rules to every transaction is at times not cost-effective or value-added, a level of discretion and professional judgement is therefore required and should be exercised, where appropriate.

For purchasing processes to be effective, the Purchasing Division must work co-operatively with departments, who are critical players in the planning, specifications development and the evaluation components of the process.

Effective procurement activities are dependent on establishing an environment, where roles and responsibilities are clearly defined and understood. While the existing Purchasing and Financial Control By-laws are comprehensive and provide a sound framework for the purchasing process, the language used in the By-laws is legal in nature, and therefore must be supported by simple, easy to understand guidelines and procedures.

In order to promote compliance, it is important that staff are not only aware of the rules, but also understand the purpose behind the rules as well as the consequences associated with non-compliance. In addition, a periodic and systematic review of procurement activities is required to monitor and promote compliance, and ensure all staff adhere to key requirements.

We identified the following as being critical success factors, necessary to successfully implement an effective and efficient purchasing process:

- clear roles, responsibilities and accountability;
- effective organization structure, including knowledgeable and competent staff;
- effective performance indicators;
- clear by-laws and policies;
- efficient and cost effective processes;
- open, fair and transparent processes; and
- effective contract management controls.

Ultimate success in improving the procurement processes, will however be determined not only by the technical aspects and processes (i.e., By-law, use of technology, etc.) but by the human element (i.e., leadership in implementing required changes, corporate culture, training and staff development, etc.).

The following sections outline our observations and opportunities to improve the current processes. It should be noted that some of these recommendations could be acted upon quickly, while others will take more time. An implementation plan, with appropriate timelines, must therefore be developed by the Chief Financial Officer and Treasurer for approval by the Administration Committee in September 2003, and a status report provided to the Audit Committee every six months on the action taken.

Observations, Conclusions and Recommendations

Roles, Responsibilities and Accountability

The procurement process involves a number of steps that include planning and identification of requirements, development of specifications, bid solicitation, evaluation and contract award.

The Purchasing Division acts as the City's arms length agent in procuring goods and services, and performs an advisory and oversight role, determining the most appropriate method to procure goods and services, and ensuring that due process has been followed. In addition, the Division is responsible for reviewing purchasing policies and procedures on a regular basis, so as to ensure that the policies and procedures are current and continue to be effective.

Departments are ultimately accountable for the purchasing decisions made, by virtue of the fact that department heads have been delegated the authority to commit City funds and are responsible for their respective operations. In this regard, departments have the responsibility to ensure that adequate controls exist in their respective operations to mitigate risks around the procurement process, and ensure that public funds are properly managed.

In addition, departments have the responsibility to ensure that staff are aware of, understand and comply with procurement-related policies and procedures, including consequences for non-compliance. Identifying knowledge gaps and providing specific training with respect to procurement policies and procedures is essential to promoting compliance and the successful delegation of responsibility.

The Community and Neighbourhood Services Department currently has dedicated staff in its Office Support Services Division to provide procurement support to its operating divisions. Staff indicate that this unit provides a number of benefits to the department, including improving customer service, co-ordinating interdepartmental needs, assisting in the development of specifications and promoting compliance with procurement policies and procedures. The Purchasing and Materials Management Division has advised that this centralized procurement unit within Community and Neighbourhood Services has been effective in ensuring that purchase requests forwarded to the Purchasing Division comply with by-laws and policies, thereby allowing for faster processing of the requests.

In our focus group sessions, other departments expressed an interest in adopting the Community and Neighbourhood Services' model or a version of it. However, prior to other departments adopting this model, various factors should be taken into account. These include any additional resource requirements at the departmental level, the size, diversity and the number of locations in the respective department, as well as ensuring that the benefits of introducing an intermediary group into the procurement process outweigh any additional costs. In addition, the impact of more training and other mechanisms to achieve the same results should be explored.

In order for the procurement process to be effective, the authority, duties and responsibilities of departmental and Purchasing Division staff must be clearly defined, understood and agreed upon by all parties involved, and clear accountability established for each step in the process. There is also a need for ongoing co-operation and communication between the Purchasing Division and departments.

In our focus group sessions, many departmental staff indicated that they do not fully understand their roles and responsibilities relative to that of the Purchasing Division in the procurement process. A lack of understanding of roles and responsibilities can impact on the ability to hold individuals accountable for their actions and can cause frustration and delays in the procurement process.

The establishment of service level agreements would assist in clarifying the respective responsibilities of Purchasing and departmental staff in the overall procurement process. These agreements should include standards and expectations for all parties.

Recommendations:

1. The Chief Financial Officer and Treasurer, in consultation with Commissioners, develop service level agreements for the procurement process:
 - (i) that clearly define the roles, responsibilities, authorities and accountability of the Purchasing and Materials Management Division and departments for each step in the process, including the responsibility for ensuring compliance with the various policies;
 - (ii) that outline the standards and expectations, with respect to the level of service, turnaround time and lead time required; and
 - (iii) ensure such requirements are communicated and understood by all applicable staff, and the necessary training is provided to staff in this regard.
2. The Chief Financial Officer and Treasurer and Commissioners ensure that:
 - (i) appropriate controls are in place to effectively mitigate the risks in the procurement process;
 - (ii) mechanisms exist to prevent and detect situations of non-compliance;
 - (iii) all applicable staff understand and are aware of their roles and responsibilities, and requirements that must be followed in the respective procurement process, as well as the consequences for not meeting their responsibilities or adhering to policies and procedures; and
 - (iv) compliance with procurement procedures is incorporated into the staff performance review process.

Organizational Effectiveness

The mission of the Purchasing Division states that:

“The Purchasing and Materials Management Division of the Finance Department, having responsibility for the commitment of public funds for the acquisition of goods and services, provides leadership, quality customer service and best value to the taxpayers of the City of Toronto through the application of open, fair, equitable and accessible business processes and practices.”

In focus group meetings, Purchasing Division staff identified the three most important services of their division as: standardizing goods and services in order to benefit from volume discounts; ensuring a fair, open and transparent process through maximizing of competition; and obtaining goods and services in a timely manner. They also indicated that working closely and in co-operation with departments is an essential factor in their ability to provide effective service.

Departments, on the other hand, indicated that the Purchasing Division tends to be very process/transaction oriented, focussing too narrowly on strict policy compliance at the expense of assisting departments in procuring goods and services.

While the Purchasing Division plays an important role in ensuring due process is followed, it is equally important that they, being a service provider, also add value to the procurement process by being customer service oriented. In this regard, the Purchasing Division needs to be more proactive and innovative in providing solutions to meet departmental needs. The Purchasing Division has indicated that the lack of clarity between departments and the Division in terms of who is responsible for enforcing policies and by-laws has resulted in the Purchasing Division focusing its efforts on ‘policing’ the process. As a result, its service role has suffered.

Customer service is a mindset that requires buy-in and commitment from staff. In order for staff to adopt these values and principles, a commitment to customer service must be clearly embraced and regularly reinforced by senior management.

If the Purchasing Division is to effectively carry out its mandate, the following critical success factors must be in place:

- an effective organizational structure and administrative framework;
- competent and adequate staff resources with the necessary skills and expertise; and
- mechanisms to measure the performance of the Purchasing Division in achieving its objectives.

Organizational Structure and Resources

The Purchasing Division is comprised of three functional units: Purchasing Services, Client and Support Services, and Materials Management and Stores.

The Client and Support Services Unit provides general overall support to the Division. The unit is comprised of the following functions: Standards and Specifications; System, Policy & Research; and Client Services.

The Standards and Specifications function of the Client and Support Services Unit has one supervisor and three materials inspectors, and is responsible for providing support to departments in developing specifications as well as performing product inspections and testing.

The System, Policy & Research function provides general business support services, including mail distribution, market research, information technology and the receipt of bids and proposals. This group is comprised of one supervisor, two systems administrators, one supplier database co-ordinator, one market analyst, one purchasing service analyst and five support clerks.

The Client Services function, which consists of one supervisor, three purchasing services co-ordinators and one clerical support/receptionist, was established to serve as the first point of contact to respond to questions from departments and suppliers, and is also responsible for activities such as:

- providing advice, training and co-ordination to clients regarding procurement matters including the Financial Information System (SAP), and purchasing policies and procedures;
- conducting Public Auctions twice a year to dispose of obsolete/surplus goods; and
- assisting in the implementation of changes to the purchasing module of the Financial Information System.

The Client Services function is not operating as intended, as many of the calls received from Client Services are merely redirected to the buyers in the Purchasing Services Unit. In addition, departments view Client Services as a bottleneck and/or unnecessary middleman, rather than as a facilitator in the procurement process.

Client Services staff have indicated that a significant part of their time is spent answering questions from departments regarding how to process purchasing related transactions in the City's Financial Information System (SAP). In our opinion, this service can be more cost effectively provided by posting frequently asked questions and answers (FAQ) on the Web site, developing guidelines and procedures, and providing training to staff where required.

The Purchasing Services Unit is responsible for procuring goods and services that exceed the \$7,500 DPO limit. The Unit has a complement of 42.5 staff, with 4 managers, 24.5 buyers and 14 clerical staff. The Unit is organized by commodity, to ensure consistency in procurement processes and to more easily identify opportunities to consolidate purchases.

The current organizational structure of the Purchasing Division was recommended after amalgamation by an outside consultant, with input from all departments, and was approved by the Chief Administrative Officer and the Executive Management Team at the time.

Purchasing staff have advised that in determining the organization structure at that time, a departmental portfolio-based structure was also considered. However, since one of the criteria at the time was staff reduction, it was concluded that a portfolio-based structure would result in duplication of effort and require more staff than the commodity-based structure. In order to

satisfy both the reduction in staffing requirement and provide a client service focus, the solution at the time was to establish a commodity-based Purchasing Services Unit and a separate Client Services Unit.

The Purchasing Division has advised that an increase in workload, a lack of clarity around roles and responsibilities, and the inability to attract and maintain staff since amalgamation, have all contributed to the current structure not being as effective as it could be, which in turn has impacted the Division's ability to effectively meet its program objectives.

Our research of procurement practices found that there is no one "best" organizational structure for the procurement function. The organizational structure of the Purchasing Division should therefore be designed to best meet the mandate and objectives of the Division, as well as the overall needs of the City.

In focus group meetings, some department staff indicated their preference of having a structure in which the Purchasing Services Unit is organized into departmental portfolios. It was felt that, under this structure, Purchasing Division staff would have a better understanding of the departmental operation, and be more responsive to departmental needs. This structure would also allow for a consistent Purchasing contact for departmental staff, thereby facilitating a more effective customer service relationship.

It is premature to recommend any changes to the organizational structure of the Purchasing Unit at this time. However, in view of current conditions and expectations at the City and with the benefit of experience since amalgamation, the current structure should be revisited once the roles and responsibilities of the Purchasing Division and departments are clearly defined. The review should look at the benefits and disadvantages of a portfolio approach, and based on the diversity of departmental operations, the value of adopting a hybrid model should also be taken into account. In performing this review, consideration should also be given to consolidating the Client Services group into the Purchasing Services Unit, as well as the impact on other units within the Division.

Since amalgamation, the Purchasing Division has significantly reduced the number of Purchase Orders issued from 50,181 in 1997, to 3,854 in 2002. This in a large part was accomplished through: the consolidation of contracts; standardization of purchases; issuance of blanket contracts after amalgamation; and the harmonization of the use DPOs across the City in 1999, which delegated to departments the authority to issue departmental purchase orders for purchases under \$7,500. The Purchasing Division has also advised that the large number of purchase orders issued prior to amalgamation was in part due to the requirement that purchase orders be issued against corporate price agreements in some of the former municipalities. Further, it should be noted that during this period, the dollar value of purchases processed by the Purchasing Division increased from \$462 million in 1998 to approximately \$1 billion in 2002. This could be attributed to the fact that tenders and proposals previously processed by departments in some of the former municipalities are now processed through the Purchasing Division. During this period, staff resources dedicated to the direct procurement of goods and services was reduced from 33 FTEs in 1997 to 28.5 in 2002, not including clerical support staff.

In 2002, 2,223 calls/requests (RFQs, RFPs and Tenders) were administered by the Purchasing Services Unit on behalf of City departments, Agencies, Boards and Commissions which resulted in the issuance of 3,854 purchase orders. With a complement of 24.5 purchasing staff (excluding the Director and managers), each buyer on average administered approximately eight calls/requests per month, and as a result of these calls or requests, issued an average of 13 purchase orders per month. It should also be noted that the Purchasing Unit is supported by 14 staff providing clerical support, such as: summarizing bid results and mailing out calls/requests and addendum.

Action on the recommendations outlined in this report will result in the clarification of the roles and responsibilities of the Purchasing Division and departments in the procurement process, as well as the streamlining of processes. These changes may impact on the number and type of positions, as well as the expertise ultimately required by the Division. The review of the Division's organizational structure should therefore also take these considerations into account.

Recommendation:

3. The Chief Financial Officer and Treasurer, in consultation with the Commissioner of Corporate Services, report to the Administration Committee by January 2004 on any revisions to the organizational structure of the Purchasing and Materials Management Division, such report to include:
 - (i) an examination of the various organizational structure models;
 - (ii) a determination as to whether the Client Services group of the Purchasing and Materials Management Division should be merged with the Purchasing Services Unit; and
 - (iii) clarification of the roles and responsibilities of each unit, the number, type and mix of positions required, and any resulting resource implications.

City Stores Operation

The Materials Management Unit of the Purchasing Division provides inventory management, stores and distribution, and delivery services across the City. The Unit, with a \$2.1 million operating budget and a complement of 39 staff, operates nine warehouses (down from 11 warehouses at amalgamation) across the City. In addition to the 39 stores staff, three inspectors from the Standards and Specifications Unit of the Purchasing Division are directly involved in the City stores operation, performing quality control inspections testing of goods stocked in City warehouses. With the closure of the North York store in 2003, the number of stores operated by the Purchasing Division will be reduced to eight, and the total staff complement will be reduced to 38.

The warehouses, some of which are co-located with other departmental operations, maintain approximately \$4 million worth of inventory on an ongoing basis, and stock over 11,000 different items, ranging from office stationary to equipment parts. In 2002 the Unit processed approximately 108,000 requisitions for the supply and delivery of \$8.9 million of materials and

supplies. According to the Purchasing Division, the need for the warehousing of items is determined and requested by departments, and the warehousing arrangement provides convenience to departments and a reduction in administrative costs (by reducing the volume of invoices to be processed).

Not including the opportunity costs associated with funds tied up in land, building and inventory, it costs over \$2 million to manage receipts of \$8.5 million and the delivery of \$8.9 million of materials and supplies. The current activity levels do not appear to justify the City's investment in the stores operation. It should also be noted that there are over 80 other locations, managed by City departments, which also stock various materials and supplies.

The current trend in most organizations is to replace their stores operation through the establishment of blanket contracts with a network of suppliers acting as a "virtual store", dealing directly with the end user, and providing "just in time" delivery.

During the 2003 budget process, the Chief Financial Officer and Treasurer was requested to report to the Administration Committee on the rationalization of the City stores operation from nine to four warehouses.

A corporate review of all stores operation was also approved as an amalgamation initiative, however, it was never started because of the need to first complete other departmental initiatives (Fleet Rationalization and Yards Rationalization) before a determination on the number of City stores required could be made.

The Chief Financial Officer and Treasurer has advised that a report on the rationalization of all City stores will be submitted to City Council in late 2004. This report will also cover the store locations managed by City departments.

Recommendation:

4. The Chief Financial Officer and Treasurer, in his report to the Administration Committee on the rationalization of all City stores, take into account:
 - (i) what materials, supplies and equipment should be stocked in City stores, including those operated by departments;
 - (ii) the impact of the use of procurement cards and the increased use of blanket contracts to supply goods currently stocked by City Stores;
 - (iii) the impact on staff levels;
 - (iv) the opportunity costs of land and building on which the current stores are located, as well as funds tied up in inventory; and
 - (v) the overall benefits and cost savings resulting from the rationalization of the City stores operation.

Knowledgeable and Competent Staff

A key factor to providing effective procurement services to departments is determining the qualifications and skills set required, and taking action to ensure staff are knowledgeable and have the necessary expertise to carry out their job responsibilities. Staff must also be familiar with City operations, processes and policies, be able to provide meaningful procurement advice to departments and be aware of innovative and current procurement practices.

The Purchasing Division's ability to operate effectively has been impacted by a high staff turnover rate since 1999. For example, over the last year, the Purchasing Services Unit has lost three managers, which has left a void in the knowledge and experience in the Unit, and has resulted in the shift of workload to other managers and the director. Compounding this problem is the fact that the Purchasing Division has experienced difficulties in recruiting qualified staff.

The retention and recruitment of qualified and experienced staff is paramount to the success of any organization. While some level of turnover will always occur, the turnover rate in the Purchasing Division is high. In order to effectively address this problem, the root causes must be identified before any solution can be identified. The Division is currently working with Human Resources to develop a strategy to address this problem.

Recommendation:

5. The Chief Financial Officer and Treasurer, in consultation with the Commissioner of Corporate Services:
 - (i) identify the skills and expertise required by Purchasing and Materials management Division staff to effectively meet the Division's business and customer service objectives;
 - (ii) assess the skill set and competency level of current staff;
 - (iii) develop a training and development program that ensures staff have the necessary customer service and technical expertise to effectively perform their responsibilities; and
 - (iv) determine the causes of the Purchasing and Materials Management Division's high staff turnover rate, and take the necessary corrective action to remedy this problem.

Performance Measurement

The Purchasing Division currently maintains various indicators to measure the Division's performance. These performance indicators are, for the most part, transactional and process oriented, and include:

- number and dollar value of purchase orders issued;
- dollar value processed per buyer;

- cost to issue a Purchase Order;
- percentage of the Purchasing Division budget relative to total City budget;
- average time to resolve customer complaints; and
- number of outreach sessions.

While these indicators are important, they are transaction/process oriented and do not effectively measure how well the Division is carrying out its program objectives. There is therefore a need to develop results oriented performance indicators to measure the success of the Division in achieving its intended program results. Examples of these performance indicators are: supplier and departmental staff satisfaction with the procurement process; procurement cycle times; and any cost savings that result from specific purchasing initiatives.

In addition to measuring the performance of the Division on an ongoing basis, it is also important that benchmarks be developed to measure the success of the Division in implementing the recommendations in this report.

Recommendation:

6. The Chief Financial Officer and Treasurer develop:

- (i) results based performance indicators for the Purchasing and Materials Management Division that measure the results and effectiveness of its activities; and
- (ii) benchmarks to measure the success of the implementation of the recommendations in this report.

By-Laws, Policies and Guidelines

The Toronto Municipal Code, Chapter 195 (Purchasing By-law) and Chapter 71 (Financial Control By-law) provide the legal authorities delegated by Council for the conduct of procurement activities in the City. These by-laws, along with policies approved by Council, and administrative directives issued by the Purchasing Division and departments from time to time, provide the overall framework for the purchase of goods and services.

Our review of the City's by-laws and purchasing policies included benchmarking the City's practices with those of other organizations in both, Canada and the United States. It should be noted however, that the level of detail contained in these by-laws and provisions varied significantly from jurisdiction to jurisdiction, making any meaningful analysis difficult.

Based on our review, it was noted that while the City's by-laws are comprehensive in nature, they require further refinement and clarification in some areas. Often times, user departments and the Purchasing Division seek clarification from the City Solicitor and the Auditor General's Office for interpretation, thus prolonging the procurement process. Therefore, in addition to clarifying the Toronto Municipal Code, as necessary, it is also essential that simple, clear and concise procedures and guidelines be developed for each type of procurement process to support the Toronto Municipal Code and guide staff.

The Toronto Municipal Code and applicable procurement policies are included in the Purchasing Division's Web site. The Web site could be further enhanced by incorporating guidelines and frequently asked questions and answers for each type procurement process, and by promoting its existence to all staff on a regular basis.

New Municipal Act Requirements

The Municipal Act, 2001 is a framework statute providing for the structure, governance, and general powers of municipalities. One of the provisions of the new Act (Section 271) is the requirement that before January 1, 2005, municipalities and local boards must adopt policies with respect to its procurement of goods and services, including policies with respect to:

- (a) the types of procurement processes that shall be used;
- (b) the goals to be achieved by using each type of procurement process;
- (c) the circumstances under which each type of procurement process shall be used;
- (d) the circumstances under which a tendering process is not required;
- (e) the circumstances under which in-house bids will be encouraged as part of a tendering process;
- (f) how the integrity of each procurement process will be maintained;
- (g) how the interests of the municipality, the public and persons participating in the procurement process will be protected;
- (h) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
- (i) any other prescribed matter.

It is our understanding that the above requirements must take the form of a by-law, since the Municipal Act, 2001 requires that the powers of a municipality be exercised by its council and that municipal powers be exercised by by-law. The Ministry of Municipal Affairs and Housing is in the process of developing a guide, currently in draft, to assist municipalities in formulating procurement by-laws. There are important considerations included in the draft guide that will help promote the effectiveness and integrity of procurement processes and which should therefore be included in the development or enhancement of the City's current policies.

Examples of issues that the draft guide suggests be considered and addressed in the procurement by-law include:

- criteria and considerations to help determine the appropriate procurement method to be used (i.e., RFQ, RFP or Tender);
- policies to prevent the splitting of work/projects to by-pass procurement requirements above a certain threshold;

- policies to ensure specifications are non restrictive and do not favour any particular vendor;
- processes for dealing with situations where all bids or proposals received exceed the budget established for the goods or services to be performed, or where there are significant changes made to the specifications or scope of work to be delivered; and
- how contractors' past performance is considered in the procurement process to minimize the risk of awarding contracts to poor performing contractors (Note: the review of this issue is in progress).

In addition to the requirements contained in the new Municipal Act, there are also situations where the City receives unsolicited bids from suppliers. As requested by the Administration Committee, the Chief Administrative Officer, in consultation with the Purchasing Division, is working on a policy to address how unsolicited bids will be handled so as to ensure fairness and transparency in the process.

Through our discussions with departmental and Purchasing staff, a number of areas in the Toronto Municipal Code were identified, that required further clarification and/or modification. Some of the issues are of a technical nature and therefore can be addressed immediately, while other issues may require further study. The issues are discussed below.

Delegation of Authority for Emergency Purchases

The Toronto Municipal Code, Chapter 195, section 5(D) provides the authorities and responsibilities of the Purchasing Agent, the Chief Administrative Officer and department heads, with respect to emergency purchases. Under the current provisions, department heads cannot delegate their authority with respect to emergency purchases to their respective staff.

Departmental staff have indicated that there could be situations where there may not be sufficient time to obtain approval from the department head, which would impact on the department's ability to respond to an emergency situation on a timely basis.

We recognize the importance of providing departments with the flexibility to take immediate action during an emergency. However, the risks associated with delegating authority to a number of staff, and allowing them to procure goods/services directly without the involvement of the Purchasing Agent and/or prior approval of Council must also be considered.

The conditions in which the emergency provision can be used is defined in very broad/general terms, such as: "threat to public health", "maintenance of essential City services", "security of the City's interest", "an occurrence requiring the immediate delivery of goods and services". While we can understand the need to delegate authority to staff below the department head level, it is important that clear parameters and guidelines, including dollar thresholds be established, and that consideration be given to how far down and to which positions such delegation is granted.

Authority for Contract Awards

Municipal Code Chapter 71 Section 10 (Financial Control) states that: “No commitment shall be made, no debt shall be incurred, no expenditure shall be made and no account shall be paid by or on behalf of the City, except with Council approval.”

City Legal is of the opinion that department heads, Bid Committee and Standing Committees do not have the authority to award a contract where there is no approved budget in place. This has necessitated the need for departments to obtain Council approval to award contracts that extend/straddle over to the following year, as well as for multi-year contracts, regardless of the dollar value of the contract. Given the timing of procurement cycles and budget approvals, this strict interpretation causes some operational challenges and should be reviewed.

While Council can approve contracts that extend/straddle into the following year, this does not mitigate or alleviate department heads’ responsibilities to stay within their budgets. Department heads are still responsible for ensuring that their respective operating budgets are not exceeded.

For goods or services that support regular and existing City programs and services, it is reasonable to assume that funds will be allocated for such expenditures in future budgets. Nonetheless, there is a need to clarify the authorities required for the award of multi-year contracts and contracts that straddle across more than one year, for both capital and operating expenditures.

Over-expenditures

Municipal Code Chapter 71 (Financial Control) provides department heads with the authority to approve capital expenditures in excess of the awarded contract price to a maximum of 10 percent of the original contract amount, up to \$500,000. Any amendment to an awarded contract which requires expenditures in excess of 10 per cent or \$500,000 of the awarded contract amount requires Committee approval.

The By-law as it is presently worded and currently enforced, has created situations where, for example, over-expenditures as low as \$1,000 against an \$8,000 contract are being reported to standing committee and Council for approval. The Toronto Municipal Code should be reviewed and a more reasonable and practical requirement be established.

In addition, there is some confusion among departmental and Purchasing staff, as to whether the over-expenditure provision also applies to operating commitments. We have confirmed with City Legal staff, that the over-expenditure provision is applicable to both operating and capital expenditures. While the Toronto Municipal Code clearly states that capital expenditures in excess of 10 per cent or \$500,000 of the awarded contract amount requires the approval of the appropriate standing committee, it is silent with respect to the approval requirements pertaining to operating expenditures. The Toronto Municipal Code with respect to over-expenditures should therefore be clarified in this regard.

Department heads are responsible for ensuring that proper controls are in place in their respective departments, to monitor and control the use of the over-expenditure provision. Department heads must therefore ensure that appropriate documentation is retained, which justify and provide support as to why contract amounts need to be amended. As a further compensating control, the approval for such over-expenditure requests should be escalated to a level above the original authorizer as soon as the requirement for additional work becomes known.

In addition, to promote transparency in the process, the Chief Financial Officer and Treasurer should report annually, to the Administration Committee, all amendments in excess of 10 per cent, for contracts up to \$500,000 in value.

Unforeseen Circumstances

Departments have indicated that situations arise where purchase order values may have to be amended as a result of unanticipated conditions and/or unforeseen events occurring, such as finding contaminated soil or asbestos. These events are most typically associated with construction projects. In addition, there are situations where developers or contractors may not fulfil their contractual obligations with the City, necessitating the need for the City to hire a contractor to complete the work or ensure that services continue uninterrupted.

Delays resulting from the need to obtain Committee authorization for amendments to contracts or to go through a full competitive process and obtain the necessary approvals to hire another contractor to complete the work, could impede the progress of construction or cause service interruption. It could also result in the submission of delay/impact claims by the contractor, unless amendments are authorized in a timely manner.

In order to facilitate the approval of such expenditures, consideration should be given to have departments and the Purchasing Agent obtain "Standing Authority" from Council to amend existing contracts or to hire replacement contractors, within prescribed parameters.

Non-procurement Items

In our discussions with departments, a number of situations were identified where payments are made to outside entities which are not actual purchases of goods and services and for which there would not necessarily be a purchasing document (PO).

Payments such as grants are directly approved by Council. Other types of expenditures, however, such as joint research studies, shared cost agreements, donations and sponsorships are not specifically addressed in the Toronto Municipal Code, in terms of the authority required. In the absence of such authority, the Finance Department has required that such expenditures be supported by a purchase order.

In order to facilitate the payment of such expenditures, the Toronto Municipal Code should be amended and/or policies be developed to deal with these issues and to specifically identify the types of expenditures which do not need to be supported by a purchasing document, as well as the parameters for such expenditures.

Recommendations:

7. The Chief Financial Officer and Treasurer:

- (i) expedite the development of a Purchasing Manual, develop clear and concise procedures to guide both Purchasing Division and departmental staff in each type of procurement process, and ensure that the requirements of the Municipal Act, 2001 are incorporated into the City's Municipal Code and policies, as required;
- (ii) in conjunction with Commissioners, ensure that the procedures and guidelines are communicated to all staff with procurement responsibilities, and that the necessary training is provided, such that staff are aware of, understand and comply with the requirements;
- (iii) develop a process to periodically review and update the Toronto Municipal Code chapters 71 (Financial Control) and 195 (Purchasing), as well as purchasing policies and procedures as required; and
- (iv) incorporate procurement procedures/guidelines, applicable forms and "Frequently Asked Questions and Answers", for each type of procurement process on the Purchasing Division's Web site.

8. The Chief Administrative Officer, in consultation with the City Solicitor, the Chief Financial Officer and Treasurer and Commissioners, review and make the necessary revisions to the Toronto Municipal Code and/or policies to clarify the following:

- (i) the appropriate level of delegation for emergency purchases, below the Commissioner level, as well as any conditions or parameters for such delegation;
- (ii) the authorities required for the award of multi-year contracts and contracts that straddle from one year to another, for both capital and operating expenditures;
- (iii) any appropriate revisions to the extent of Commissioners' authority to approve over-expenditures for contracts under \$500,000, and the necessary reporting requirements;
- (iv) the approval requirements for over-expenditures pertaining to operating contracts;
- (v) the parameters and criteria under which the Commissioners should be able to authorize additional expenditures under a contract as a result of unforeseen circumstances or conditions, or to take the necessary action to complete a contractor's unfulfilled contractual obligations in a timely manner, including any after the fact reporting requirements in this regard; and
- (vi) the types of expenditures that do not require a purchasing document to support payment to the respective organization, including any appropriate parameters or limitations relating to these expenditures.

9. Commissioners, in consultation with the Chief Financial Officer and Treasurer, revise their respective delegation of financial signing authority schedules, such that requests to increase the previously authorized dollar value on purchase orders and contracts, requires the approval of the original authorizer's immediate manager as soon as the additional work required becomes known.

Canadian Content Policy

The City's Canadian Content Policy provides for a 10 per cent price preference for all Canadian content identified in bids and proposals submitted. The rationale for the 10 per cent Canadian Content preference was to stimulate and encourage Canadian manufacturing activity and to assist Canadian suppliers in competition for the supply of goods and services to government.

In evaluating bids and proposals, the Purchasing and Materials Management Division rank the bids/proposals, both before and after the application of the Canadian Content policy. As a normal practice, the Purchasing and Materials Management Division only verify the Canadian Content claims of the successful bidder in situations where the application of the policy changes the ranking of the evaluation.

Staff of the Purchasing Division have indicated that it is very difficult to verify the Canadian Content claims of bidders/proponents. Verification procedures are currently limited to requesting from the successful bidder, details as to how the Canadian Content amount submitted in their quotation/proposal was determined, and to a cursory review of such information for reasonableness. Due to the fact that the verification of such information occurs before a contract is awarded, it is difficult to validate the Canadian Content claims with any degree of certainty, since in many cases, the proponent may not have contracted with the suppliers they plan to use. In addition, the proponent/bidder may change to a non-Canadian supplier once the contract is awarded.

The practice of granting a percentage price preference for Canadian Content may result in situations where the low bidder is not awarded the contract. Ideally, in a totally fair and open competitive environment, all suppliers, regardless of location should be permitted to compete solely on the basis of their cost competitiveness.

In a survey of 13 other Canadian municipalities, none have a similar policy. With the introduction of the North American Free Trade Agreement, the Province of Ontario has repealed its Canadian Content policy in June 2001.

The Chief Financial Officer and Treasurer has been requested to report to the Administration Committee on the Canadian Content policy. Given the difficulties associated with verifying the Canadian Content claims, it may be appropriate for the City to repeal the current Canadian Content policy. The Chief Financial Officer and Treasurer has indicated similar concerns and is in agreement with repealing this policy.

Recommendation:

10. The Chief Financial Officer and Treasurer report to the Administration Committee on the potential repeal of the Canadian Content Policy, and any related implications.

Fair Wage Policy

The City adopted a Fair Wage Policy in October 1998. The intent of adopting a fair wage policy is to create a level playing field for vendors competing for City contracts and to ensure that contracted companies pay their workers union rates or, for non-union workers, the prevailing wages and benefits in the field.

The Auditor General conducted a review of the Fair Wage Policy in January 2001. This review identified various problems with respect to the Fair Wage and Labour Trades Office, including the efficiency and effectiveness of its enforcement of the Fair Wage Policy.

The Commissioner of Corporate Services will be reporting to the Administration Committee in the Spring of 2003 on proposed changes to the Fair Wage Policy, and status of the implementation of the Auditor General's recommendations.

Open, Fair And Transparent Processes

The City's procurement policies and practices are designed to facilitate the efficient acquisition of goods and services in an open, fair, equitable and accessible manner.

The Purchasing Division and user departments are jointly responsible for ensuring the integrity and transparency of the procurement process. User departments are ultimately accountable for the evaluation process and the selection of the successful vendor. The Purchasing Division monitors compliance with due process to ensure that purchase decisions are made in a fair and impartial manner.

As part of this review, my office sent surveys to 200 City vendors. Twenty-six out of the 36 suppliers who responded to the survey indicated that the City's procurement process is fair and provides equal opportunity to all interested bidders. There are however, opportunities to further enhance the fairness and transparency of the process.

Bid Committee

The Bid Committee, which is comprised of representatives of the Chief Administrator's Office, the Treasury and Financial Services Division of the Finance Department, City Clerk and the department who initiated the call, was established in order to facilitate the contract award process. The City Clerk is the chair of the Committee but does not vote. Only the Chief Administrative Officer and the Chief Financial Officer and Treasurer, or their designates, are voting members on all Committee decisions. The department head's designate only votes on award of contracts initiated by their respective department. The Purchasing Division attends the Committee meeting in an advisory role only. Currently, the Bid Committee meets on a weekly basis and has authority to award contracts up to \$2.5 million, resulting from a request for quotations, proposals or tenders where the lowest bidder meeting specifications and requirements is being recommended for award. Accordingly, the Bid Committee can only award contracts where there is no discretion required.

The Bid Committee adds transparency to the process by opening and recording bids received, and awarding contracts in public. By meeting on a weekly basis, it also expedites contract awards.

Currently, each contract awarded by the Bid Committee requires a separate report. Many of these awards are simple and straightforward, and do not warrant a separate report. The reporting format should be simplified by consolidating contract awards involving the same department into one report.

Recommendation:

11. The Chief Financial Officer and Treasurer, in consultation with the City Clerk, develop a composite report format, by September 2003, for the award of contracts by the Bid Committee.

Bid Opening

Bid responses to tenders are received in sealed envelopes and retained by the City Clerk, and are opened weekly by the Bid Committee. Responses to a Request for Quotations and a Request for Proposals, regardless of the estimated value, are received in sealed envelopes and opened publicly by the Purchasing Division, on a daily basis.

While Tenders are opened by the Bid Committee, there are situations where responses to Request for Quotations are also high in dollar value, yet these are opened by the Purchasing Division. It is important that bids of similar value are treated consistently.

Recommendation:

12. The Chief Financial Officer and Treasurer develop a dollar threshold limit above which responses to Request for Quotations must be opened by the Bid Committee.

Mathematical Errors and Disqualification of Bids

Mathematical errors in bids received by the City are reviewed and adjusted by City departments, where the errors are made in the calculation of price extensions and/or taxes. Errors in unit prices and/or quantities are not adjusted. In all cases, where prices are corrected for mathematical errors, the adjusted price is reported to Bid Committee or Standing Committee. While the Purchasing Division verifies that mathematical errors identified by departments were corrected, controls in the process could be enhanced by having the Purchasing Division verify, on a random sample basis, mathematical extensions on tenders received regardless of whether the department identified an error or not.

How the City deals with mathematical errors, and under what circumstances such errors will cause a bid or proposal to be declared informal should be clearly stated in the call and request document. This would facilitate the handling of mathematical errors contained in bid and proposal submissions, and would ensure that all cases are treated consistently.

Establishing written procedures upfront, outlining how such errors will be addressed would also promote integrity in the process. These procedures should clearly indicate that corrections will only be made when the evidence of the mistake is ascertainable directly from the submitted bid and not from additional information brought forward by the supplier.

Our review of bids indicate mathematical errors exist in many bids submitted, particularly with respect to tenders. Many of the errors occur in the calculation of price extensions.

Mathematical errors, whether they are legitimate or not, impact the perception of integrity around the process. The call or request documents should therefore be reviewed to determine if there are opportunities to streamline the documents such that the risk of errors is reduced.

In addition, the Purchasing Division should monitor bids and proposals received to identify any error patterns and take any necessary corrective action.

Submitted bids are declared informal at bid openings when submissions do not meet the mandatory requirements specified in the Request for Quotations, Request for Proposals and Request for Tenders documents (i.e., bid not signed, no bid bond, etc.). There have been instances, however where decisions have been reversed when City Legal reviewed the documents.

There are currently inconsistencies with respect to the format used to submit bids and the manner in which mandatory and other requirements are included in the call or request documents. To facilitate the locating of mandatory documentation and information during the bid opening, a standard format for submission should be used in all calls or requests.

Recommendation:

13. The Chief Financial Officer and Treasurer:

- (i) verify on a random basis, mathematical extensions on tenders received, regardless of whether the department identified an error or not;
- (ii) in consultation with the City Solicitor incorporate in the Purchasing Manual, as well as in all call/request documents, the protocol and policies for the correction of mathematical errors contained in supplier submissions and how tenders and bids with mathematical errors will be treated;
- (iii) communicate with vendors on a regular basis, to emphasize the importance of ensuring bids are accurate and complete, and include all mandatory information, monitor bids and proposals received for any error patterns, and, in consultation with the City Solicitor, determine whether any protocol or mechanisms can be implemented to deal with problematic vendors;
- (iv) develop a standard template for bids/proposals, such that the location of mandatory documentation and information at bid openings is facilitated; and

- (v) in consultation with the City Solicitor, review the call/request documents such that critical information requirements and consequences for non-compliance are clear, in particular those situations under which a bid/proposal will be declared informal.

Use of Consultants to Develop Call/Requests Documents

From time to time, City departments engage the services of outside consulting firms to assist in the development of Request for Proposals that require specific expertise not available internally. Current City practice prohibits the consulting firm who developed the call/request documents from responding to that call or request or on future phases of the project. To ensure consistency and to promote compliance, it would be appropriate for the City to formalize this practice.

Recommendation:

14. The Chief Administrative Officer:

- (i) develop a policy that formalizes the requirement to prohibit consulting firms who were involved in preparing the call/request from bidding on the respective project; and
- (ii) ensure this requirement is communicated to all applicable staff and vendors.

Evaluation of Bids and Proposals

The integrity of the competitive process depends largely on whether all bidders and proponents are treated and evaluated in a fair, consistent and impartial manner, and that there is the necessary level of transparency. It is therefore important that departments properly plan how the process should work and who should be involved.

The evaluation of the bids and proposals are currently performed by user departments, who possess the knowledge required to assess technical requirements of a bid or proposal submission and who are accountable for the decision made.

The Purchasing Division's role in the evaluation process is to ensure that the criteria used in the evaluation are consistent with those specified in the call or request documents, and that due process was followed.

Our observations in relation to the bid/proposal evaluation process are as follows:

Currently call or request documents issued by the City have two contact names: technical questions are referred to a departmental contact; whereas, the Purchasing Division is the point of contact for questions regarding process. In order to maintain fairness in the process, generally accepted purchasing practice supports the Purchasing Division's centralized management of the suppliers, including communication and interaction between the supplier and user department staff, so that no bidder/proponent can gain an advantage or apparent advantage over another. It is not practical or possible for Purchasing Division staff to attend every meeting between

suppliers and departmental staff, or to be aware of other discussions that occur. However, the integrity of the process will be enhanced if formal guidelines and parameters are established with respect to proper conduct and limitations concerning discussions and contact between supplier representatives and staff. The nature and timing of contact, such that no informal contact occurs before and during the evaluation, or before the contract award, should also be stipulated in the guidelines.

While the evaluation criteria are disclosed in the Request for Proposals document, the relative weights assigned to each criteria are not always provided. Some departments are concerned that disclosing the relative weights in the request documents could cause proposals to be slanted to the criteria with the highest weight factor.

Current practice is that the criteria and relative weights are documented and provided to the City's Purchasing Division prior to issuance of the request for proposals.

In addition, the weight assigned to "price" can vary from call to call. The City's Policy for the Selection and Hiring of Professional and Consulting Services requires that the weight assigned to "price" be a minimum of 25 per cent. A similar policy should be considered for adoption for Request for Proposals.

Proposal evaluation practices vary from having one person perform the evaluation to establishing a formal evaluation committee. In order to enhance impartiality and controls in the process, it is good business practice for more than one individual to be involved in the evaluation of proposals depending upon the complexity and dollar value of the project. It is also important that evaluation team members have the appropriate level of knowledge and expertise to effectively perform the evaluation. For complex and high risk procurement transactions, for example, where different financial options may have to be considered and evaluated, outside expertise should be retained as required, to provide assurance to senior management and Council on the reasonableness and thoroughness of the financial analysis conducted by City staff.

The Purchasing Division normally receives from the user department a summary scores sheet on the overall evaluation results. However, not all documentation in support of decisions made, including scoring assigned by each evaluator is currently provided to the Purchasing Division. Staff advised that the Municipal Act requires that all records must be retained, unless the municipality has established a retention schedule for those records and the period of retention has expired. However, there are currently no guidelines to assist staff in determining the nature and level of documentation that should be retained to support procurement decisions. It is our understanding that the Chief Administrative Officer has requested that staff develop a Record Retention By-law and guidelines for all City records, including documentation relating to procurement decisions.

While it would be difficult and not cost effective for Purchasing Division staff to be involved in all proposal evaluations, it is our view that Purchasing staff should be involved in the evaluation of proposals above a certain dollar threshold, to monitor, provide guidance and ensure that due process is maintained.

The Policy for the Selection and Hiring of Professional and Consulting Services, adopted by Council in December 2001, provides sound principles and guidelines some of which were used in formulating the recommendations in this report. The Policy for the Selection and Hiring of Professional and Consulting Services can therefore serve as the basis for the development of process guidelines for other bids and proposals issued by the City.

Recommendations:

15. The Chief Financial Officer and Treasurer, in consultation with Commissioners, ensure that all City staff involved in the procurement process have the knowledge and are properly trained to manage and participate in the process, and develop directives and guidelines such that:
 - (i) call/request methods used are appropriate, an effective evaluation methodology is designed for all requests, that the evaluation is performed by more than one person, as appropriate, that the composition, knowledge and expertise of the evaluation team is reflective of the complexity and dollar value of the assignment, and that outside expertise is retained as required for complex and high risk procurement transactions, to ensure that a sound business decision is made and properly justified;
 - (ii) the proposal evaluation criteria are disclosed in the request document, the relative weights are pre-determined and documented, that price be assigned a minimum weight of 25 per cent, consistent with the City's Hiring and Selection of Consulting Services Policy, and that criteria be developed for any exceptions to these requirements;
 - (iii) the Purchasing and Materials Management Division is involved, in proposal evaluations for those projects above a pre-determined dollar threshold limit or based on other criteria, as determined by the Chief Financial Officer and Treasurer, to monitor, provide guidance and ensure due process is followed;
 - (iv) proposal evaluations are performed independently and that each evaluation team member, whether a staff member or an outside consultant, is required to sign a conflict of interest declaration:
 - disclosing any entertainment, gifts, or other benefits, in cash or in kind, received from proponents or their representatives;
 - certifying that he or she conducted the evaluation in a fair and objective manner, and free from any conflict of interest or undue influence;
 - (v) the Chief Financial Officer and Treasurer develop a policy of "no informal contact" between department staff involved in the procurement and the potential suppliers, and establish guidelines to assist staff in determining proper conduct and limitations with respect to communication and contact with potential suppliers; and

- (vi) the City's call/request documents stipulate that staff directly or indirectly involved in the evaluation and decision making process are not permitted to accept any gifts, entertainment or other benefits, and that the supplier's bid/proposal may be rejected if it fails to comply with this requirement.

16. The Chief Financial Officer and Treasurer, in consultation with the City Clerk, report to the Administration Committee on the level of documentation required to support procurement decisions and the responsibility for the retention of such documentation.

Reporting Contract Awards

Currently, the award of contracts is done by either the Director, Purchasing and Materials Management Division, Bid Committee, Standing Committee or Council, depending on the dollar value of the contract.

Contracts awarded by the Bid Committee, Standing Committee or Council are publicly disclosed through staff reports to the respective Committee, which allows for deputations from the public on the contract award. All tenders awarded are also posted on the City's Web site.

Contracts under \$500,000 which are awarded by the Director, Purchasing and Materials Management Division are not made public. In order to further enhance the transparency of the process and decisions made, all contract awards exceeding the DPO limit should be posted on the City's Web site. This would also provide an effective mechanism for communicating bid/proposal results.

Recommendation:

17. The Chief Financial Officer and Treasurer post the results of all contract awards, which exceed the Departmental Purchase Order limit, on the City's Web site, including appropriate information on all bids and proposals received.

Disclosure of Information – Contract Award Reports

In order for Committees and Council to make informed decisions on contract awards, it is important that information in the staff reports is accurate and complete, and presented in a clear and concise manner.

A financial protocol has been developed by the Chief Financial Officer and Treasurer with respect to the review and sign off on budgetary implications provided in staff reports. It would be appropriate that a similar protocol be developed for contract awards, specifically with respect to the nature and level of information contained in staff reports to Committees. Contract award reports must contain sufficient information to demonstrate to Council that due diligence was followed in the overall process, relative to the potential risk and complexity of the contract, as well as include all critical terms and conditions.

Recommendation:

18. The Chief Financial Officer and Treasurer develop a template for contract award reports that clearly presents key information to committees and Council, including information such as:
- the bid/proposal solicitation method
 - evaluation criteria, including weight assigned to each factor
 - composition and technical knowledge of evaluation team
 - justification for contract award
 - length of the contract, including any renewal options
 - total value of contract
 - total value of any contingencies in contract
 - key terms and conditions in the contract.

Ensuring the Integrity of the Procurement Process

Council members and City employees are expected to conduct themselves in an honest and ethical manner. In carrying out their duties and responsibilities, staff and elected officials will come in contact with the general public and suppliers. All staff and elected officials must therefore be aware of the City's conflict of interest and code of conduct provisions and ensure they do not violate the public's trust.

To promote ethical behaviour on the part of staff and elected officials, the City has:

- adopted the Code of Conduct for Members of Council and others who serve on City agencies, boards, commissions and other bodies;
- adopted a Conflict of Interest Policy for City staff;
- implemented a Fraud Policy and set up a City Fraud/Waste Hotline, administered by the Auditor General, for City staff and the public to report suspected wrongdoing and waste involving municipal resources and contracts;
- created an Ethics Steering Committee to recommend a process for monitoring the implementation of the Code of Conduct and to consider other related policy matters;
- endorsed an interim complaint protocol, as recommended by the Ethics Committee;
- established a Lobbyist Disclosure Policy which applies to all purchases above the Bid Committee award limit of \$2.5 million, requiring bidders/proponents to disclose any communication they have had with any Member of Council or City Official, to promote its bid/proposal or oppose any competing bid/proposal; and

- approved a temporary voluntary lobbyist registry, while awaiting enabling legislation from the Province to create a formal registry.

In addition, the Purchasing Division has implemented initiatives such as conducting supplier seminars to ensure that new suppliers are made aware of the City's procurement process, policies and by-laws, and distributing the City's Conflict of Interest Policy to all suppliers on the City's Bidders' list as well as new companies applying to be placed on the Bidders' list.

The City will also be considering the appointment of an integrity commissioner with full powers to investigate alleged ethical charges against Council members. In addition, the Code of Conduct and the Conflict of Interest policies provide standards of conduct that council members and City staff should apply when dealing with lobbyists. In both policies, City officials are reminded to be "vigilant in their duty to serve public interests when faced with lobbying activity". They also include guidelines on identifying whether they are being lobbied.

The success of these policies and processes are dependent on the consistent enforcement, regular communication and clear consequences for non-compliance or improper behaviour. These policies also need to be reviewed and revised periodically, to ensure they are clear and current.

While the Conflict of Interest Policy has been communicated to City staff by various means, it is important that a consistent process is followed to ensure that staff understand and are reminded of the policy on a regular basis. It should be noted that the Chief Administrative Officer has, through corporate communications and e-mails, periodically reminded City staff of the importance to carry out their day-to-day operations in accordance with City policies. In addition to signing off the conflict of interest policy and management control checklist as part of their 2002 performance objectives, department heads and senior staff were advised by the Chief Administrative Officer to cascade this requirement down to the manager level.

Recommendation:

19. The Chief Administrative Officer:

- (i) ensure that City staff sign an annual declaration acknowledging that they understand and agree to the terms and conditions contained in the City's Conflict of Interest policy, as well as the consequences of non compliance;
- (ii) send an annual notice to all City staff reiterating the City's Conflict of Interest policy;
- (iii) on an annual basis, forward the Code of Conduct for Members of Council, Conflict of Interest Policy and the Fraud Policy to the Ethics Steering Committee, requesting their direction on whether these policies are clear and current, and recommend any revisions to Council for approval; and
- (iv) amend the Lobbyist Disclosure Policy such that the policy applies to all City purchases regardless of dollar amount, so that it is consistent with the voluntary lobbyist registry.

Fairness Commissioner

A Fairness Commissioner is an external resource that is used by the federal and some provincial governments on certain projects, to provide independent oversight of the procurement process and to attest to the fairness of the process.

An external consultant, such as a Fairness Commissioner, can be used to review the various components of a procurement process, to ensure that:

- there are no artificial barriers to vendor participation
- the scope and deliverables are described specifically and appropriately
- evaluation criteria is clear
- terms and conditions are fair and reasonable
- the evaluation process is properly designed
- there is adequate documentation of the proceedings

For complex, high risk/cost or high profile projects, the engagement of a Fairness Commissioner, on an as required basis, may provide additional assurance to senior management and Council that the process followed was open, impartial, transparent and proper.

Recommendation:

20. The Chief Administrative Officer, in consultation with the Chief Financial Officer and Treasurer, report to the Administration Committee by September 2003, on:
 - (i) the costs and benefits of using an external consultant (Fairness Commissioner) on certain City projects, to shadow and attest to the fairness and appropriateness of the procurement process;
 - (ii) the criteria to be used to determine when an external consultant (Fairness Commissioner) should be engaged; and
 - (iii) the reporting relationship for this role.

Streamlining The Procurement Process

The current procurement process is time consuming and administratively labour intensive. Based on information provided by the Purchasing Division, it takes approximately 60 days to process a contract award under \$500,000, from the time a call or request (RFQ/RFP/Tender) is solicited to when a purchase order is issued, even though committee approval is not required.

These transactions represent approximately 91 per cent of all calls/requests issued. The 60 days elapsed time is comprised of:

- 20 days for vendors to respond to calls/requests;
- 30 days for departments to complete their evaluation and submit a recommendation to the Purchasing Division; and

- 10 days for the Purchasing Division to summarize the bid results, review the department's recommendation and to issue a purchase order.

It should be noted that the 60 days elapsed time does not include the time required to develop the specifications and the call/request document, which departments indicate could add significant more time to the process, depending upon the complexity of the work or project.

For those contracts (approximately 9 per cent) which exceed \$500,000, the turnaround time is approximately 100 days, which includes obtaining Bid Committee and or Standing Committee/Council approval.

Our review identified the following areas where the procurement cycle time can be reduced and the process improved and/or streamlined:

- procurement planning;
- development of specifications;
- bid solicitation;
- low dollar value purchases;
- blanket contracts;
- contract development; and
- sole source purchases.

Procurement Planning

Department heads are responsible for ensuring that their staff properly plan their procurement requirements, in conjunction with Purchasing Division staff. Purchasing Division staff have indicated that they send out questionnaires to departments to identify their procurement needs for the following year. To date, however, the response to these requests has been low.

In order to ensure minimal delays in completing the procurement process, it is important that departments anticipate their requirements and communicate this information to the Purchasing Division and City Legal.

This would make both the Purchasing Division and City Legal aware of the nature and timing of the requirements so that they can prepare themselves to better respond to departments' needs.

The absence of proper procurement planning has resulted in departments not receiving the goods/services when needed, and has caused the competitive process to be compromised in some instances by single sourcing the purchase. It has also resulted in last minute requests where the Purchasing Division and City Legal do not have sufficient time to meet departmental deadlines.

From our discussions with departments and the Purchasing Division, it was acknowledged that proper procurement planning is a problem that needs to be addressed.

Recommendation:

21. Commissioners:

- (i) identify their procurement needs, including the volumes of goods and services required, specifications and deliverables, and the timing of such requirements; and
- (ii) ensure that this information is communicated to the Purchasing and Materials Management Division and City Legal on a timely basis, allowing for sufficient lead time, such that both the Purchasing and Materials Management Division and City Legal can schedule their respective resources to meet departmental timelines.

Development of Specifications

The development of specifications has been identified as a major bottleneck in the procurement process.

The development of specifications requires considerable time and effort on the part of departments. Most of the jurisdictions we surveyed, indicated that the development of specifications is a co-operative exercise between Purchasing and departments.

The City's Purchasing Division is responsible for reviewing the specifications developed by departments, so as to ensure that the specifications are complete, not restrictive and sufficiently detailed so as to allow for a proper evaluation. Departments have indicated that increased guidance is required from the Purchasing Division that clearly provides where and how specifications are lacking. As such, the Purchasing Division needs to play a more pro-active supporting role, and guide departments through the process.

Specifically, the Purchasing Division could facilitate the process by:

- developing a template identifying what should be included in a specifications document so as to promote uniformity in the development of specifications;
- maintaining a central library of previous specifications and posting such information on the City's Intranet , so as to allow departments access to the information; and
- establishing partnerships with other levels of government and municipalities through the sharing of information and by taking advantage of the specifications work done by other organizations.

Recommendation:

22. The Chief Financial Officer and Treasurer:

- (i) post on the City's Intranet a library of previously developed specifications;
- (ii) develop specifications templates and guidelines which provide information to staff on the nature, type and level of detail required for specifications; and

- (iii) establish partnerships with other jurisdictions for the sharing of specifications information.

Development of Call/Request Documents and Addendum

Purchasing Division staff have indicated that often times departments request that modifications be made to the specifications/requirements, after the call/request document has been released. Several instances were noted in our review, where multiple addendum have been issued pertaining to a single call.

This results in additional work for Purchasing Division staff, who must send the addendum to all suppliers who have picked up a copy of the call/request document.

In addition, the practice of issuing addendum creates extra work for suppliers as well, who may have to update their bids/proposals to reflect any changes to the requirements.

Departments have indicated that there are various reasons why there may be a need to issue an addendum, including:

- to address questions/issues raised during the supplier briefing meetings;
- to clarify certain areas in the call/request document;
- to correct an error or omission in the call/request document; and
- to reflect changes to the actual requirements.

Departments have also indicated that they do not always get an opportunity to review the call/request document prior to it being issued by the Purchasing Division. As a result, departments may not be aware of changes made to the document. While it would be inefficient to have the call/request document returned to the department prior to it being issued, the department should be notified of any changes made by the Purchasing Division before the document is finalized and issued.

In order to reduce the frequency and/or need to issue addendum, there needs to be better planning and thought put into the development of the specifications, on the part of departments and better communication with the Purchasing Division. In this regard, departments must ensure that sufficient time is given to allow for the proper development of the specifications.

In addition, to ensure that the integrity of the process is maintained and that all suppliers are treated fairly, it is important that the Purchasing Division determine whether the closing date needs to be extended, so as to allow suppliers sufficient time to respond to changes reflected in the addendum. This determination would take into account a number of factors and would be made in consultation with the respective departments.

Recommendations:

23. Commissioners, in consultation with the Chief Financial Officer and Treasurer, establish mechanisms in their respective program areas to ensure that specifications and deliverables in Requests for Quotations, Proposals and Tenders, are clear and complete.

24. The Chief Financial Officer and Treasurer:

- (i) ensure that departments are notified of any changes to call/request documents before the request or call is issued; and
- (ii) in consultation with departments, make the determination with respect to any changes to the closing date specified in a call/request document.

Solicitation of Bids and Proposals

The Purchasing and Materials Management Division maintains a Bidders' List of potential suppliers of goods and services. To be added to or retained on the City's Bidders' List, suppliers are charged an annual fee of \$50. However, the majority of suppliers placed on the Bidders' List are not screened by the Purchasing Division to ascertain that they have the qualifications and capacity to do business with the City.

Firms on the Bidders' List automatically receive by mail, all quotation and proposal requests issued by the City, relating to the particular good/service that the company provides. The current process is very paper intensive and time consuming, and does not always result in the best overall value to the City, as the cost to administer the process may exceed the savings or benefits expected. The 1999 Service Rationalization Study, completed by an external consultant, indicated that the costs associated with maintaining the Bidders' List, including salaries, benefits, printing and postage, far exceeded the revenues (currently about \$200,000) generated. The value and effectiveness of the Bidders' List is therefore questionable and should be revisited. Our sample review of 36 purchasing files indicates that on average, the City receives a 15 per cent response rate from the solicitations made to suppliers on the City's Bidders' List. Our survey of other jurisdictions in Canada and the United States indicates that many organizations now place the onus on suppliers to monitor upcoming contract opportunities.

In our opinion, the current practice of mailing solicitations to suppliers on the Bidders' List is costly to administer with limited results, and should be discontinued. Instead, suppliers should be able to download the call/request document from the City's Internet site. To facilitate access by any firms that do not have Internet capabilities, the City's Internet site could also be made available at civic centres, public libraries and community centres if necessary. Discontinuing the practice of mailing out call/request documents to suppliers on the Bidders List would eliminate the staff, printing and mailing costs associated with the Bidders' List, and would allow the Purchasing Division to make better use of its staff resources.

If the Internet is used to advertise business opportunities with the City, and the onus placed on suppliers to download the call/request documents, then it is important that mechanisms are established so that addendum and other critical information can be circulated to potential vendors appropriately. These could include posting addendum on the City's Web site and placing the onus on suppliers to periodically monitor the site for amendments to the calls or requests, or developing an online tracking system identifying suppliers who have downloaded bid documents. The purpose of the Bidders' List and any revenue implications resulting from changes to how this List is used and maintained, would also have to be reviewed.

Another option that could be explored is the use of an electronic tendering service such as MERX. MERX is currently used by the federal government, the Ontario provincial government, and numerous municipalities across the country, to place notices of potential contract opportunities. Call/request documents are uploaded by MERX in PDF format (Portable Document Format). All information is password protected so that no unauthorized changes can be made to the online document. In addition, MERX tracks document activity, identifying which suppliers have downloaded documents. There is no cost to the City to post notices with MERX, however, suppliers wishing to download these documents are charged a fee by MERX.

Bids/proposals in response to opportunities advertised and downloaded from the City's internet Web site and/or other electronic tendering service would still be required to be submitted to the City in hardcopy, as there are technical and legal risks that need to be addressed before the electronic submission of bids can be considered by the City.

Recommendations:

25. The Chief Financial Officer and Treasurer review and report to the Administration Committee by September 2003, on:
 - (i) discontinuing the practice of mailing out call/request documents to suppliers;
 - (ii) utilizing the City's Internet Web site or other electronic tendering services, as appropriate, to advertise contract opportunities with the City, and allow interested vendors to download the call/request document;
 - (iii) the purpose, cost and benefits of maintaining a Bidders List in its current form;
 - (iv) the cost savings and revenue implications resulting from changes to the current procurement solicitation process; and
 - (v) an appropriate and effective communication plan to inform suppliers of any changes to the current procurement solicitation process and requirements.
26. The Commissioner, Corporate Services, take the necessary action to expedite implementation of procurement initiatives that require information technology assistance and support.

Low Dollar Value Purchases

Under the provisions of the Purchasing By-law, a department head may authorize the purchase of goods or services directly, through the issuance of a Departmental Purchase Order (DPO), when the total cost, including all taxes and related charges, does not exceed \$7,500 in any one instance.

A total of 65,487 DPOs were issued by departments in 2002. Our examination found that 94 per cent of the total purchase transactions in the City were within the \$7,500 DPO limit, and therefore processed outside of the Purchasing Division. These DPOs accounted for 6.3 per cent (\$66.4 million) of the total value of all City purchases.

In a survey of Canadian and U.S. jurisdictions, the limits up to which departments can procure goods and services without the involvement of a central purchasing department, ranged from \$350 to \$10,000. In addition, a review of the DPO limits of agencies, boards and commissions of the City noted that Exhibition Place and the Toronto Police Services have DPO limits of \$10,000. It is our understanding that the Toronto Transit Commission no longer uses departmental purchase orders.

Our analysis of the DPO statistics for the City indicates that 98 per cent of all DPO purchases issued in 2002 were under \$5,000 in value, and 76 per cent were under \$1,500.

Currently, the majority of purchases exceeding the Departmental Purchase Order limit (\$7,500) go through a full formal competitive process, administered centrally by the Purchasing Division, without regard to the dollar value of the purchase. While maximizing competition is important for high dollar purchases where the benefits outweigh the administrative costs, more limited competition should be considered for small and straightforward purchases.

It is also the Purchasing Division's current practice to keep all calls and requests open in the market for a minimum of 15 calendar days. While this is a requirement of the Ontario/Quebec Trade Agreement for: goods in excess of \$25,000; services in excess of \$200,000; and construction contracts in excess of \$100,000, the Purchasing Division has applied this policy to the majority of purchases in excess of \$7,500.

Low dollar value purchases represent a significant portion of the total purchases processed by the Purchasing Division. In 2002, 1,327 (38 per cent) of the Purchase Orders and Contracts issued by the Purchasing Division were under \$25,000, but represented less than 2 per cent (\$17 million) of the total value of all purchases processed through the Purchasing Division.

For low dollar value purchases, the internal costs to develop, advertise and process the bid and purchase documents can far exceed the savings or benefits of obtaining the "lowest price". The process must balance the administrative costs of procurement with the expected savings, while ensuring a reasonable level of competition. In addition, suppliers may not require a full 15 days to provide price quotations or proposals on certain goods or services.

Most by-laws of other jurisdictions have provisions to expedite the procurement of low dollar value purchases. A survey of other municipalities in Canada and the U.S. found that the threshold for obtaining formal competitive sealed quotes ranged from \$10,000 to \$100,000. For purchases below the threshold limit, informal bids (i.e., phone, fax or written quotes) may be used by Purchasing staff as the method of solicitation.

The City's Purchasing Division is responsible for making business decisions based on the application of sound procurement policies and risks to the City. While the City's Purchasing By-law states that "the Purchasing Agent shall be responsible for determining the method of solicitation", the Purchasing Division has been reluctant to use a less formal competitive process for lower dollar value purchases. To assist Purchasing staff in using a less formal solicitation process for certain purchases, parameters and criteria need to be developed to guide them in this regard. To facilitate this process, the pre-qualification of vendors, through a competitive process, will also be necessary, where such pre-qualified vendor lists do not already exist.

Further, the practice of using a Vendor of Record system or bidders/proponents list as the basis for inviting price quotations or proposals from two or more suppliers can also be used. This method is generally used in circumstances where the estimated value of purchase is low and there is a need to move as quickly as possible to fill a business need. The firms placed on such record may represent qualified applicants that have frequently responded to calls and requests previously advertised by the City.

In our discussions with departments, staff were of the opinion that the current DPO limit was too low and should be increased from the current \$7,500 limit. Under the Toronto Municipal Code, Chapter 195, Purchasing, “the Chief Administrative Officer is authorized to determine from time to time, in consultation with the Treasurer and the Purchasing Agent, any increase to the departmental direct purchase limit.” However, before any significant change is made to the current DPO limit, we suggest that the impact of the Purchasing Division using less formal processes to expedite the procurement of low dollar value purchases above the DPO limit should be determined. In addition, the impact of other tools available to streamline the processing of low dollar value purchases should also be considered, in particular, the use of purchasing cards and the expanded use of blanket contracts.

Purchasing cards were developed in the late 1980’s as a means of expediting the acquisition of small-dollar goods to meet departmental needs. Purchase cards have been found to have numerous other important benefits, principally relating to the reduction or elimination of the paperwork associated with purchase orders and invoices for thousands of small-dollar transactions, as well as making the payment of accounts more efficient and cost effective.

Purchasing cards are currently used by other jurisdictions, including the federal and provincial governments, the regions of Halton and Peel, as well as the cities of Ottawa, Hamilton and Brampton.

The City has been working towards the introduction of a Purchasing Card program since amalgamation in 1998, however the use of purchasing cards has not yet occurred due to other priorities in the Finance Department.

Certain departments are currently using vendor-based credit cards (i.e., Canadian Tire, Home Depot, Rona, etc.) for small dollar value transactions. These credit cards are independently administered by the respective divisions within each department. While we support the use of purchasing cards, it is our view that all credit and purchasing cards should be centrally administered by the Purchasing Division. This would ensure better control over the issuance of purchasing cards as well as ensuring that a competitive process is followed with respect to corporate contracts under which these cards could be used.

Finally, it is important that an effective control framework be developed to effectively manage and ensure the proper use of these cards.

Recommendations:

27. The Chief Financial Officer and Treasurer establish clear parameters and criteria to guide Purchasing and Materials Management Division staff in using less formal procurement processes to obtain price quotations or proposals, taking into consideration the time given to suppliers to respond to calls or requests, the method by which responses are received, and the number of suppliers from which bids or proposals are solicited.

28. The Chief Financial Officer and Treasurer:

- (i) expedite the implementation of purchasing cards in City operations, using a phased-in approach;
- (ii) develop the necessary policies and procedures with respect to the issuance, use and control of credit and purchasing cards, including consequences for misuse of the cards;
- (iii) in consultation with Commissioners, ensure that necessary training is provided to all departmental staff responsible for the use and management of the purchasing cards; and
- (iv) report to the Administration Committee by January 2004, on the status of the purchasing card program, including any costs to administer the program and any benefits realized.

Non-competitive Procurement (Sole and Single Source)

The term “sole source” in the Toronto Municipal Code is used to refer to both “single source” and “sole source” transactions. In order to promote clarity and ensure that the City’s definition is in line with the draft Ministry of Municipal Affairs and Housing guidelines for procurement, it is important that the City’s Municipal Code clearly distinguishes between these non-competitive processes.

In the draft Ministry guidelines, “sole sourcing” is defined as procurement of a good or service that is unique to a particular vendor and cannot be obtained from another source. “Single sourcing”, on the other hand, is the procurement of a good or service from a particular vendor, with justifiable reasons, rather than through solicitation of bids or proposals from other vendors.

In 2002, 646 purchase orders totalling \$31.5 million were issued by the Purchasing Division, at the request of City departments, through non-competitive processes (i.e., single source or sole source). These purchases represented 16.8 per cent of all purchase orders (or 3.2 per cent of total dollar value of purchases) issued by the Purchasing Division in 2002. Our analysis of the reasons given for these purchases indicated that while a majority of these purchases were made because of reasons such as emergency, proprietary/trademark or patent, 38 per cent of them were justified on the basis of “time constraints” and “other” reasons. In some cases, the good or service covered by the “sole/single source” request had already been received, and the purchase order was issued essentially to legitimize the transaction and enable payment.

In an attempt to ensure that rules are applied appropriately and consistently, the Chief Administrative Officer has established a process whereby all sole (and single) source requests above \$7,500 are required to be forwarded to the Purchasing Division for review prior to approval by the department head. Under this policy, a request form is required even for those purchases which can only be obtained from one source, such as software licences, TTC tokens, and utilities. Once approved by the department head, the request form is returned to the Purchasing Division for processing. This has resulted in a cumbersome and time-consuming

process. It is our view that the completion of an approval form in these instances is of little value since essentially departments have no other sources to procure these goods or services from. A list of those goods or services that should be exempt from the completion of the sole (single) source request form, should therefore be developed to save staff time and facilitate the timely issuance of a purchase order.

While there will always be a need to single source certain purchases, this process should not be used as a substitute for proper planning on the part of departments. In this regard, department heads have a responsibility to monitor the use of the single source purchases in their respective departments, so as to ensure that it is only used in appropriate circumstances and that such decisions are properly documented and retained.

The use of single source for goods and services already received is inappropriate, and should also be monitored by department heads so that appropriate action can be taken.

The need to single source could be reduced through the pre-qualification of vendors and the use of blanket contracts which are established through a competitive process. Better procurement planning on the part of departments and more effective use of blanket contracts will minimize the need for single source purchases.

Transparency for purchases which are ultimately single sourced could be enhanced by reporting these instances to Council on an annual basis. This should not include those transactions that can only be procured from one source.

Recommendations:

29. Commissioners:

- (i) monitor the use of single source purchases in their respective departments with the view to reducing the need to purchase goods and services without going through a competitive process; and
- (ii) in consultation with the Purchasing and Materials Management Division, properly plan their requirements in order to reduce the single sourcing of purchases.

30. The Chief Financial Officer and Treasurer:

- (i) in consultation with Commissioners, develop a list of sole source goods and services (e.g., TTC tokens, utilities, etc.) that can be processed without completing a sole (single) source request form;
- (ii) report annually to the Administration Committee outlining, by department:
 - all single source purchases exceeding the Departmental Purchase Order limit and reasons therefor;
 - percentage of purchase orders processed through the Purchasing Division using single source as justification;
 - all instances where purchase orders have been issued after the fact; and

- (iii) post on the City's Web site, all single source contract awards in excess of \$7,500.

Increased Use of Blanket Contracts and Co-operative Agreements

Blanket contracts for various goods and services are established by the Purchasing Division, following a competitive process. These contracts are an effective tool that departments can use to obtain goods and services directly from the selected vendors without having to go through a competitive process for each transaction. Blanket contracts can also enable the Purchasing Division to negotiate volume discounts by consolidating departmental requirements.

The establishment of blanket contracts reduces departments' dependency on the Purchasing Division, thereby allowing Purchasing staff to focus on providing advice/control for large tender and RFP purchases.

The Purchasing Division has significantly reduced the number of purchase orders issued since amalgamation, through the consolidation of purchases. However, opportunities exist for further consolidation across the City, since standards and service levels have not been fully harmonized across the City and/or within departments, and multiple contracts may still exist for the provision of the same good or service.

Staff from Client Services Unit of the Purchasing Division have indicated that they only issue a blanket contract when a request is initiated by a user department. There is a need for the Purchasing Division to be more proactive in identifying common needs of departments, as well as those situations where blanket contracts would facilitate and assist specific departments in carrying out their operational responsibilities. It is equally important that departments identify their "emergency service" needs to the Purchasing Division.

Finally, it should be noted that in 2002, approximately 7.4 per cent of the total purchase orders and contracts issued by the Purchasing Division at the request of departments, totalling \$14.6 million (1.5 per cent of total dollar value of purchase orders), were processed without going through the competitive process due to "emergencies", "time constraints" and "other reasons" (single source). Identifying those goods and services that are required on an urgent basis, as well as potential emergency requirements, and establishing blanket contracts, as appropriate, to meet those needs would help reduce the need to single source to a particular vendor.

The City is currently involved in co-operative purchasing arrangements with the Police Co-operative Purchasing Group, Toronto District School Board, Exhibition Place, Toronto Zoo, Toronto Hydro, and the Universities Purchasing Group. These agreements have been limited to commodities such as gasoline, salt, tires and footwear, as agreeing on a common set of specifications has proved to be problematic. Nonetheless, opportunities to expand these agreements to cover a broader spectrum of goods and services and to include all Agencies, Boards and Commissions, other public organizations such as hospitals, as well as other levels of government, should be explored. While we recognize that the City is one of the largest government purchasing bodies in Canada, and that as a result, the potential benefits of expanding the joint purchases program may be minimal to the City, City Agencies, Boards and Commissions could obtain some benefit from such arrangements.

Recommendation:

31. The Chief Financial Officer and Treasurer:

- (i) monitor purchasing activity, including Departmental Purchase Orders issued by departments, and work with departments to identify opportunities to consolidate the procurement of common goods and services;
- (ii) in consultation with departments, be more proactive in identifying potential opportunities to utilize blanket contract agreements for goods and services, to more efficiently meet the needs of departments, including emergency requirements;
- (iii) further explore opportunities to enter into co-operative purchasing agreements with the City's Agencies, Boards and Commissions, other municipalities, public organizations, and other levels of government.

Information Technology Acquisition Process

An Information Technology Acquisition process was recently developed by the Commissioner of Corporate Services and approved by Council in February 2003, which requires that all information technology requirements be forwarded to the Contract Management Office of the Information Technology Division for authorization prior to engaging in the procurement process. The purpose of this pre-approval process is to ensure that all technology purchases meet corporate standards and that an inventory is maintained of all information technology purchases.

The Information Technology Acquisition process also requires that the City go out to the market every 90 days to obtain competitive quotes for the supply of desktop computers and related peripheral equipment, so as to ensure that the City takes advantage of the most current prices.

Given that the Information Technology Acquisition process has just recently been rolled out (February 2003), it would be appropriate to review the procedures after six to twelve months to determine the effectiveness of the process and to identify whether any modifications/enhancements are required.

Recommendation:

32. The Commissioner of Corporate Services, in consultation with the Chief Financial Officer and Treasurer, report to the Administration Committee by March 2004 with respect to the effectiveness of the Information Technology Acquisition procedures.

Procurement Stakeholders Group

The procurement process should be continually reviewed and refined to ensure that policies and procedures are cost effective, efficient and value-added.

While a Purchasing Client Reference Group was established in 1999, this group stopped meeting in 2002 due to staff turnover in the Purchasing Division. It is important that the Purchasing Client Reference Group be re-established as soon as possible to provide feedback on specific procurement issues and to assist in problem resolution and continuous improvement.

Currently, all financial administrative matters/issues, including accounts payable, budget, and purchasing, are funnelled through the Financial Administrative Co-ordination Team (FACT) for resolution. It would therefore be appropriate that the Purchasing Client Reference Group report to FACT.

Recommendation:

33. The Chief Financial Officer and Treasurer, in consultation with Commissioners, re-establish a Purchasing Client Reference Group to deal with procurement issues.

Contract Management Controls and Reporting

The proposed changes to the by-laws and processes identified in this report have been aimed at streamlining the procurement process. It is also important, however, that proper monitoring and control of supplier contracts exists, and that the financial information systems provide accurate, complete and relevant management information to enable the effective management of procurement activities.

Streamlining the Contract Execution Process

Request for Proposals and Request for Tenders issued by the City contain standard terms and conditions that would form part of any contract award, whether by purchase order or formal agreement. Purchase orders are issued for all purchases in excess of \$7,500. However, depending on the complexity and nature of goods or services being procured, there may be a need to include and or negotiate additional terms and conditions. At the present time, it is up to departments to determine whether legal advice, including the necessity for a formal contract, is required.

While it is difficult to stipulate when a formal agreement is required, it would be useful to have general guidelines to assist departments in this regard.

Departments have indicated that the lack of timely support from City Legal as being a factor, in causing delays in the procurement process. Departments have noted that often times, work is started and in some cases completed before a contract is formally executed by City Legal.

To streamline the process, departments and City Legal have developed standard contract templates for certain agreements, where the requirements are straight forward and relatively consistent from contract to contract, such as road repairs. It would be useful for departments and City Legal to review other types of purchases for which standard templates can be used. This would help alleviate the workload on City Legal as only complex and non-standard agreements would need City Legal's review and execution, and ensure contracts are in place before work commences.

Recommendation:

34. The City Solicitor, in consultation with the Chief Financial Officer and Treasurer, and Commissioners:
- (i) develop criteria and guidelines outlining the circumstances in which a formal contract is required; and
 - (ii) develop a standard contract template to be used and executed by departments for straightforward purchases, and where there is no negotiation involved with respect to the terms and conditions in the bid document.

Bid Bonds/Performance Bonds

Bid Bonds guarantee that the bidder will honour its bid price or forfeit the deposit. Performance Bonds are used to ensure that a contractor delivers goods or services as required under the contract and completes the job in a timely manner. The Performance Bond protects the City against potential financial loss in the event of non-performance on the part of a contractor.

There is currently a lack of clarity around the type of security that is acceptable for bids. While the Works Department has established departmental guidelines on bonding requirements, there are no corporate standards or guidelines with respect to when Bid Bonds and/or Performance Bonds are required and what dollar value is needed. It is currently up to the individual departments to decide whether a Bid Bond and or Performance Bond is necessary. This has resulted in inconsistent practices among departments, as well as within departments, and could expose the City to unnecessary risks in the event a contractor withdraws their bid after bid opening or does not meet the deliverables and other terms and conditions specified in the contract.

Recommendation:

35. The Chief Financial Officer and Treasurer, in consultation with the City Solicitor develop:
- (i) a corporate policy that outlines when Bid Bonds and Performance Bonds are required and the type of security that is acceptable; and
 - (ii) a process to determine the dollar value of the security requested, taking into account the nature of goods or services to be provided, the magnitude of the contract and the risks involved, to ensure that the interests of the City are adequately protected.

Contract Signing Authority

Chapter 257-6 of the Toronto Municipal Code authorizes the City Clerk and the Chief Financial Officer and Treasurer to sign contracts on behalf of the City. In performing the contract signing authority functions, it is important that these staff as well as their designates understand the rationale and the expectations behind their signature.

Further, some departments have been delegated the authority to prepare and or execute (sign) certain contracts up to their commitment authority. However, there is currently no central repository for these delegations of authority.

Recommendations:

36. The Chief Administrative Officer, in consultation with the City Solicitor:

- (i) clarify the roles and responsibilities of City Legal, the Chief Financial Officer and Treasurer, City Clerk and Commissioners in the contract execution process and ensure that the responsibilities and rationale are clearly communicated to all staff involved; and
- (ii) develop mechanisms and assign clear responsibility for ensuring decisions of Bid Committee, Standing Committee and Council are accurately reflected in the purchase order or contract, and that the necessary authority exists to enter into the agreement.

37. The Chief Administrative Officer, in consultation with the Chief Financial Officer and City Clerk, establish a central repository for all contract signing and other procurement authorities delegated to departmental staff.

Monitoring Contract Payments

A blanket contract is a price agreement between a supplier and the City, in which the supplier guarantees a fixed price for specific goods or services during the term of the contract, within a total dollar upset limit.

The monitoring of purchases against these contracts, so as to ensure that the approved contract limits are not exceeded, is controlled through the issuance of a contract release order by the department ordering the goods or services. Such procedure also allows complete and accurate information to be centrally maintained in the corporate financial information system for accounting, monitoring, control and reporting purposes.

In the City Auditor's report dated June 19, 2001 entitled "Selection and Hiring of Professional and Consulting Services Review", a number of situations were identified where payments were processed as a non-Purchase Order voucher because purchase orders were not issued. This resulted in payments in excess of contract amounts. The City Auditor's report recommended that consultants should only be engaged after the appropriate approvals have been obtained and a duly authorized purchase order is processed and recorded on the financial management information system. Any payments processed in excess of original contract amount should be identified and explanations obtained for such occurrences.

The Chief Administrative Officer, in a memo dated January 7, 2002, directed department heads to implement the City Auditor's recommendations, and to ensure their staff accurately input expenditures in the financial information system. Department heads were also asked to identify means of implementing stronger controls or discontinuing payment of non-Purchase Order vouchers.

This review has identified the following concerns with respect to the establishment of contract amounts in the system and processing of payments against the contracts:

- Contract values are not always accurately set up in the financial information system by Purchasing Division staff. Instances were noted where multi-year contracts in the system reflected the value for the current year only and not the cumulative value over the entire term of the contract. As a result, the system could erroneously show the contract as being over-spent.
- Departments are not issuing contract release orders for all purchases made against a contract or are only processing contract release orders above a prescribed limit established by the department. Information such as quantities purchased is also not being captured in the corporate financial information system. Departments have indicated that processing contract release orders is manually labour intensive, and that they do not have sufficient resources to perform this function.
- The financial system allows users to process contract release orders that exceed the value of the contract. While the system generates a warning message, it would appear that departments are regularly overriding this message, thereby exposing the City to potential contract over-expenditures.

The Chief Administrative Officer is aware of these problems, and has asked the Chief Financial Officer and Treasurer to identify the necessary action required to address these issues.

Recommendation:

38. The Chief Financial Officer and Treasurer:

- (i) report to the Administration Committee by September 2003 on the control mechanisms in place or to be implemented to prevent contracts from being over-spent, including the benefits and resource implications of processing contract release orders, both at the dollar value and commodity level, and explore other viable options, such as potential system modifications to achieve this objective; and
- (ii) develop appropriate interim mechanisms to prevent contracts from being over-spent.

Management Information

The Purchasing Division has indicated that the financial information system does not meet all of their informational needs. As a result, a significant portion of the information pertaining to the procurement process is managed outside of the system. Most of the statistics maintained by the Purchasing Division are captured using a separate software program or are obtained manually.

In order for the financial information system to more effectively support procurement activities, the Purchasing Division needs to: define their informational needs; identify any gaps/barriers to obtaining the required data; and develop strategies to cost effectively obtain the information required.

Recommendation:

39. The Chief Financial Officer and Treasurer in consultation with Commissioners, identify the procurement information needs of the Purchasing and Materials Management Division and departments, and take the necessary action to cost-effectively obtain the information required, in order to enable the effective management of procurement activities.

Access to Blanket Contracts

The City's Financial Information System does not have the capability to restrict access to a particular blanket contract. Currently, all blanket contracts, including those established for a specific department, are available to and accessible by every department. As a result, departments do not have any control over purchases made against their own blanket contracts.

While it may not be possible to restrict access to a particular blanket contract, the SAP system does have the capability to create multiple blanket contracts with a particular vendor. For goods or services that are used by more than one department, it may be appropriate to create a separate blanket contract for each individual department, with its own departmental dollar limit, under the same terms and conditions as the master agreement.

There are also situations where blanket contracts are required and established specifically for a particular department. Departments have expressed concerns that other departments access their blanket contracts causing the blanket contract to be over-spent. It is important that mechanisms be established to prevent this situation from occurring. The Chief Administrative Officer has requested the Chief Financial Officer and Treasurer to develop appropriate mechanisms to address this problem.

Recommendation:

40. The Chief Financial Officer and Treasurer:
 - (i) in consultation with departments, establish separate blanket contracts for each individual department in accordance with the terms and conditions provided in the master agreement for the respective goods and services; and
 - (ii) establish mechanisms to prevent department specific blanket contracts from being accessed by other departments.

Unit Prices on Blanket Contracts

Our review of purchasing records noted several instances in which the blanket contract did not indicate the unit price or rate for the good/service. In addition, a review of the supplier invoices pertaining to these contracts noted that the invoices only provided a lump sum amount with no breakdown on the rates/prices charged.

In the absence of such information, staff approving invoices would not be in a position to determine whether the rates charged by the supplier are reasonable and consistent with the terms and conditions specified in the contract.

Recommendation:

41. The Chief Financial Officer and Treasurer:

- (i) ensure that all purchase orders and contracts issued specify the prices and/or rates to be charged; and
- (ii) request suppliers to provide adequate details on the invoices, specifying the rates/prices charged and goods/services provided.

Other Issues

Authority of the Proposed Water and Wastewater Committee

At its meeting held on November 26, 27 and 28, 2002, City Council approved the establishment of a Water and Wastewater Committee. Having responsibility solely for water and wastewater matters, this Committee would report directly to Council and have delegated authorities to award capital and operating contracts within the approved budgets.

In approving the establishment of this Committee, the City's Auditor General was requested to address, in his study on procurement currently under way, "the special procurement needs of Water and Wastewater in the implementation of their capital and operating programs and make recommendations on changes that would provide the appropriate delegated powers to award contracts within the approved capital and operating budgets."

City Council also requested the Auditor General to report on whether the proposed Water and Wastewater Committee needs to have its own purchasing by-law.

It is our understanding that under the proposed model, the Water and Wastewater Services Division would become a "business unit" within the Works and Emergency Services Department. In overseeing this independent program, the Water and Wastewater Committee would need the delegated powers to award contracts within the approved capital and operating budgets. Under the current Toronto Municipal Code (Purchasing and Financial Control), City Council delegates significant authority to the Bid Committee and Standing Committees to award contracts of up to \$2.5 million and \$5 million respectively. In addition, as part of our review of procurement processes in the City, we have made various recommendations to improve and streamline procurement activities. Consequently, we see no need to provide any additional or special powers to the Water and Wastewater Committee at this time, nor the need for the Committee to have its own purchasing by-law.

Recommendation:

42. The proposed Water and Wastewater Committee be governed under the Toronto Municipal Code, Chapters 71 (Financial Control) and 195 (Purchasing), and be delegated the same level of contract award and procurement authority as other standing committees in the City.

Accounts Payable

The timely payment of accounts has been a problem in the City since amalgamation. Delays in the payment of supplier invoices has impacted on the City's relationship with vendors, whereby some suppliers have refused to do business with the City.

In February 2003, the Chief Administrative Officer and the Executive Management Team (EMT) received a report from the Financial Administrative Co-ordination Team (FACT) on issues impacting the timely payment of accounts, as well as short, medium and long-term strategies to address this problem. EMT approved the proposed short-term strategies, specifically with respect to the development of guidelines, staff and vendor education, and the further rollout of three-way match to other departments. They also requested that FACT report back to EMT, by the end of April 2003, on a work plan to achieve these short-term strategies.

While action taken to date has resulted in some improvement, the payment of accounts within a reasonable timeframe continues to be a significant issue that must be addressed by the Chief Financial Officer and Treasurer as a high priority item.

Recommendation:

43. The Chief Financial Officer and Treasurer report to the Administration Committee by July 2003 on:
 - (i) a prescribed time line and or standard payment term for the payment of all City accounts; and
 - (ii) action taken or to be taken to ensure that accounts are paid within the prescribed time line, including any changes in processes and resources required.

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Procurement Processes Review – City of Toronto
Summary of Recommendations and Management's Response

Recommendation	Management's Response
<p>1. The Chief Financial Officer and Treasurer, in consultation with Commissioners, develop service level agreements for the procurement process:</p> <ul style="list-style-type: none"> (i) that clearly define the roles, responsibilities, authorities and accountability of the Purchasing and Materials Management Division and departments for each step in the process, including the responsibility for ensuring compliance with the various policies; (ii) that outline the standards and expectations, with respect to the level of service, turnaround time and lead time required; and (iii) ensure such requirements are communicated and understood by all applicable staff, and the necessary training is provided to staff in this regard. <p>2. The Chief Financial Officer and Treasurer and Commissioners ensure that:</p> <ul style="list-style-type: none"> (i) appropriate controls are in place to effectively mitigate the risks in the procurement process; (ii) mechanisms exist to prevent and detect situations of non compliance; (iii) all applicable staff understand and are aware of their roles and responsibilities, and requirements that must be followed in the respective procurement process, as well as the consequences for not meeting their responsibilities or adhering to policies and procedures; and (iv) compliance with procurement procedures is incorporated into the staff performance review process. 	<p>Agreed. However, it must be emphasized that roles and responsibilities of the Purchasing Division and the departments must be first clearly defined corporately before finalizing service level agreements.</p> <p>The CAO and all members of the Executive Management Team (EMT) have implemented a number of initiatives since 2000 to mitigate risks in the procurement process. These include amendments to the purchasing by-law, a Conflict of Interest policy, the requirement for business cases when hiring outside consultants and several other steps. The City's senior management group regularly communicates the priority that they place on these controls to staff. Departments will receive more guidance on implementing such controls and mechanisms to ensure consistency across the organization.</p> <p>It should also be noted that the current Office Support Services Unit of Community and Neighbourhood Services (CNS) has been very effective in ensuring CNS purchase requests forwarded to the Purchasing Division in accordance with By-laws and Policies which allows for faster processing of requests from CNS. EMT is in agreement that the CNS Unit is the model which could be utilized across the Corporation.</p>

Procurement Processes Review – City of Toronto
Summary of Recommendations and Management's Response

Recommendation	Management's Response
<p>3. The Chief Financial Officer and Treasurer, in consultation with the Commissioner of Corporate Services, report to the Administration Committee by January 2004 on any revisions to the organizational structure of the Purchasing and Materials Management Division, such report to include:</p> <ul style="list-style-type: none"> (i) an examination of the various organizational structure models; (ii) a determination as to whether the Client Services group of the Purchasing and Materials Management Division should be merged with the Purchasing Services Unit; and (iii) clarification of the roles and responsibilities of each unit, the number, type and mix of positions required, and any resulting resource implications. 	<p>The current organizational structure is based on the recommendations of an outside consultant (Johnson Smith International), hired at amalgamation, and input from City departments. The proposed structure was reviewed and approved by EMT and the CAO.</p> <p>In order to satisfy the requirements of providing a client service focus to the Purchasing Division and reduce staff at the same time, it was determined that the best solution was to create commodity based Purchasing Units with a separate Client Services Unit. The outside consultant concluded that a portfolio-based structure would require more staff, result in a duplication of duties, and would hinder standardization.</p> <p>The January 2004 report to Administration Committee on organizational structure will include an examination of portfolio, commodity-based and hybrid models. Consultations will be held with departments on the recommended structure. It should be noted that the Toronto District School Board was structured on a portfolio basis and has reverted to a commodity-based structure with a client services section, similar to the current Purchasing Division structure. Departments have requested that any reorganization should not be done at the expense of specific commodity expertise.</p> <p>It is anticipated that staff will report further in 2004 on the implementation of further recommendations for improvement stemming from the MFP inquiry.</p>

Procurement Processes Review – City of Toronto
Summary of Recommendations and Management's Response

Recommendation	Management's Response
<p>4. The Chief Financial Officer and Treasurer, in his report to the Administration Committee on the rationalization of all city stores, take into account:</p> <ul style="list-style-type: none"> (i) what materials, supplies and equipment should be stocked in City stores, including those operated by departments; (ii) the impact of the use of procurement cards and the increased use of blanket contracts to supply goods currently stocked by City Stores; (iii) the impact on staff levels; (iv) the opportunity costs of land and building on which the current stores are located, as well as funds tied up in inventory; and (v) the overall benefits and cost savings resulting from the rationalization of the City stores operation. <p>5. The Chief Financial Officer and Treasurer, in consultation with the Commissioner of Corporate Services:</p> <ul style="list-style-type: none"> (i) identify the skills and expertise required by Purchasing and Materials Management Division staff to effectively meet the Division's business and customer service objectives; (ii) assess the skill set and competency level of current staff; (iii) develop a training and development program that ensures staff have the necessary customer service and technical expertise to effectively perform their responsibilities; and (iv) determine the causes of the Purchasing and Materials Management Division's high staff turnover rate, and take the necessary corrective action to remedy this problem. 	<p>A report on the rationalization of all City stores will be submitted in late 2004. This report will clearly define the corporate and program service requirements of the more than 80 locations across the City. The CFO and Treasurer will report on the progress of this initiative during the presentation on the 2003 work plan to Policy and Finance Committee.</p> <p>The CFO is assured that Purchasing Division staff meet the professional and technical requirements to carry out their duties (i.e., Professional Certification or equivalent, communication skills, knowledge of By-laws and policies, etc.) as professional purchasing staff. Training issues within the Purchasing Division are more appropriately focussed on customer service, not the competency and qualifications of staff.</p> <p>However, given that the majority of purchases are made by departments under the DPO limit, departments such as Urban Development Services have requested that training programs be developed for staff performing purchasing duties in departments.</p> <p>Finance management staff recognize the turnover issue and have been working with the City's Human Resources Division to develop strategies to address the turnover rate. It is expected that this review of organizational structure, job responsibilities and compensation levels will lead to a more stable work force.</p>

Procurement Processes Review – City of Toronto
Summary of Recommendations and Management's Response

Recommendation	Management's Response
<p>6. The Chief Financial Officer and Treasurer develop:</p> <ul style="list-style-type: none"> (i) results based performance indicators for the Purchasing and Materials Management Division that measure the results and effectiveness of its activities; and (ii) benchmarks to measure the success of the implementation of the recommendations in this report. 	<p>City staff have been tracking performance indicators set by the Centre for Advanced Purchasing Studies (CAPS), the North American benchmarking body for purchasing performance.</p> <p>Purchasing staff also track additional effectiveness and customer service indicators such as customer service questionnaires, average time to resolve customer complaints and stores order fill rate, etc.</p> <p>The Chief Financial Officer's 2003 work plan includes the development of these performance based indicators for future business planning and for use in service level agreements.</p>
<p>7. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) expedite the development of a Purchasing Manual, develop clear and concise procedures to guide both the Purchasing Division and departmental staff in each type of procurement process, and ensure that the requirements of the Municipal Act, 2001 are incorporated into the City's Municipal Code and policies, as required; (ii) in conjunction with Commissioners, ensure that the procedures and guidelines are communicated to all staff with procurement responsibilities, and that the necessary training is provided, such that staff are aware of, understand and comply with the requirements; (iii) develop a process to periodically review and update the Toronto Municipal Code chapters 71 (Financial Control) and 195 (Purchasing), as well as purchasing policies and procedures as required; and (iv) incorporate procurement procedures/guidelines, applicable forms and "Frequently Asked Questions and Answers" for each type of procurement process on the Purchasing Division's Web site. 	<p>The Purchasing Division has already prepared a preliminary draft of a Purchasing Manual. It is expected that this manual will be in circulation in 2003. The Purchasing Division will issue plain language policy and procedure bulletins on key procurement processes as required, e.g. Request for Proposals (RFPs), tenders, Purchase Orders, etc.</p>

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<p>8. The Chief Administrative Officer, in consultation with the City Solicitor, the Chief Financial Officer and Treasurer and Commissioners, review and make the necessary revisions to the Toronto Municipal Code and/or policies to clarify the following:</p> <ul style="list-style-type: none"> (i) the appropriate level of delegation for emergency purchases, below the Commissioner level, as well as any conditions or parameters for such delegation; (ii) the authorities required for the award of multi-year contracts and contracts that straddle from one year to another, for both capital and operating expenditures; (iii) any appropriate revisions to the extent of Commissioners' authority to approve over-expenditures for contracts under \$500,000, and the necessary reporting requirements; (iv) the approval requirements for over-expenditures pertaining to operating contracts; (v) the parameters and criteria under which the Commissioners should be able to authorize additional expenditures under a contract as a result of unforeseen circumstances or conditions, or to take the necessary action to complete a contractor's unfulfilled contractual obligations in a timely manner, including any after the fact reporting requirements in this regard; and (vi) the types of expenditures that do not require a purchasing document to support payment to the respective organization, including any appropriate parameters or limitations relating to these expenditures. 	<p>Agreed.</p>

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<p>9. Commissioners, in consultation with the Chief Financial Officer and Treasurer, revise their respective delegation of financial signing authority schedules, such that requests to increase the previously authorized dollar value on purchase orders and contracts, requires the approval of the original authorizer's immediate manager as soon as the additional work required becomes known.</p> <p>10. The Chief Financial Officer and Treasurer report to the Administration Committee on the potential repeal of the Canadian Content Policy, and any related implications.</p> <p>11. The Chief Financial Officer and Treasurer, in consultation with the City Clerk, develop a composite report format, by September 2003, for the award of contracts by the Bid Committee.</p> <p>12. The Chief Financial Officer and Treasurer develop a dollar threshold limit above which responses to Request for Quotations must be opened by the Bid Committee.</p> <p>13. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) verify on a random basis, mathematical extensions on tenders received, regardless of whether the department identified an error or not; (ii) in consultation with the City Solicitor incorporate in the Purchasing Manual, as well as in all call/request documents, the protocol and policies for the correction of mathematical errors contained in supplier submissions and how tenders and bids with mathematical errors will be treated; 	<p>Agreed.</p> <p>Agreed.</p> <p>Will consult with the City Clerk as recommended.</p> <p>Agreed.</p> <p>Agreed. The Purchasing Division will work with Legal Services to implement this recommendation.</p>

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<p>(iii) communicate with vendors on a regular basis, to emphasize the importance of ensuring bids are accurate and complete, and include all mandatory information, monitor bids and proposals received for any error patterns, and, in consultation with the City Solicitor, determine whether any protocol or mechanisms can be implemented to deal with problematic vendors;</p> <p>(iv) develop a standard template for bids/proposals, such that the location of mandatory documentation and information at bid openings is facilitated; and</p> <p>(v) in consultation with the City Solicitor, review the call/request documents such that critical information requirements and consequences for non-compliance are clear, in particular those situations under which a bid/proposal will be declared informal.</p> <p>14. The Chief Administrative Officer:</p> <p>(i) develop a policy that formalizes the requirement to prohibit consulting firms who were involved in preparing a call/request from bidding on the respective project; and</p> <p>(ii) ensure this requirement is communicated to all applicable staff and vendors.</p> <p>15. The Chief Financial Officer and Treasurer, in consultation with Commissioners, ensure that all City staff involved in the procurement process have the knowledge and are properly trained to manage and participate in the process, and develop directives and guidelines such that:</p>	<p>Departments do prohibit consulting firms or vendors who were involved in preparing a Request for Proposals or other bid request documents from bidding on the respective project and related bid request. A corporate directive, formalizing this requirement as suggested by the Auditor, will be issued to all applicable staff and vendors.</p>

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<p>(i) call/request methods used are appropriate, an effective evaluation methodology is designed for all requests, that the evaluation is performed by more than one person, as appropriate, that the composition, knowledge and expertise of the evaluation team is reflective of the complexity and dollar value of the assignment, and that outside expertise is retained as required for complex and high risk procurement transactions, to ensure that a sound business decision is made and properly justified;</p> <p>(ii) the proposal evaluation criteria are disclosed in the request document, the relative weights are pre-determined and documented, that price be assigned a minimum weight of 25 percent, consistent with the City's Hiring and Selection of Consulting Services Policy, and that criteria be developed for any exceptions to these requirements;</p> <p>(iii) the Purchasing and Materials Management Division is involved, in proposal evaluations for those projects above a pre-determined dollar threshold limit or based on other criteria, as determined by the Chief Financial Officer and Treasurer, to monitor, provide guidance and ensure due process is followed;</p> <p>(iv) proposal evaluations are performed independently and that each evaluation team member, whether a staff member or an outside consultant, is required to sign a conflict of interest declaration:</p> <ul style="list-style-type: none"> - disclosing any entertainment, gifts, or other benefits, in cash or in kind, received from proponents or their representatives; - certifying that he or she conducted the evaluation in a fair and objective manner, and free from any conflict of interest or undue influence; 	<p>The City's present evaluation method for bid requests does include utilization of expert technical staff (more than one person) to reflect the complexity and dollar value of the assignment. The acquisition of outside expertise for complex and high risk procurement transactions will be done with Standing Committee and/or Council input.</p> <p>As the Auditor points out, the City's current policy requires that price be assigned a minimum 25 percent weight in the hiring of outside consultants. Practice shows that the 25 percent weight given to the price factor is generally followed by departments in Request for Proposals. The City will formalize this policy.</p> <p>Purchasing Division staff should only be involved in advising on the purchasing process. In addition, other financial analysis expertise will most likely be required for large contracts and will include other division staff from Finance.</p> <p>The Municipal Code, Chapter 195 (Purchasing), requires that all staff involved in the procurement process must abide by the purchasing ethics established by the National Institute of Government Purchasing. In addition, the City of Toronto's Conflict of Interest Policy expressly addresses this issue. The Purchasing Division will work with Legal Services to develop a sign off form for all appropriate City staff.</p>

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<p>(v) the Chief Financial Officer and Treasurer develop a policy of “no informal contact” between department staff involved in the procurement process and the potential suppliers, and establish guidelines to assist staff in determining proper conduct and limitations with respect to communication and contact with potential suppliers; and</p> <p>(vi) the City's call/request documents stipulate that staff directly or indirectly involved in the evaluation and decision making process are not permitted to accept any gifts, entertainment or other benefits, and that the supplier's bid/proposal may be rejected if it fails to comply with this requirement.</p> <p>16. The Chief Financial Officer and Treasurer, in consultation with the City Clerk, report to the Administration Committee on the level of documentation required to support procurement decisions and the responsibility for the retention of such documentation.</p> <p>17. The Chief Financial Officer and Treasurer post the results of all contract awards, which exceed the Departmental Purchase Order limit, on the City's Web site, including appropriate information on all bids and proposals received.</p> <p>18. The Chief Financial Officer and Treasurer develop a template for contract award reports that clearly presents key information to committees and Council, including information such as:</p> <ul style="list-style-type: none"> - the bid/proposal solicitation method - evaluation criteria, including weight assigned to each factor - composition and technical knowledge of evaluation team - justification for contract award - length of the contract, including any renewal options - total value of contract - total value of any contingencies in contract - key terms and conditions in the contract. 	<p>A policy on the type of communication and contact, and information that can be given will be developed. Legal Services will assist in developing this Policy.</p> <p>A survey conducted throughout the GTA indicates that no municipality has adopted a policy of “no communication with bidders” once a Call has closed.</p> <p>The CFO and Treasurer will submit such a report with the assistance of Legal Services and the City Clerk.</p> <p>The Purchasing Division will begin posting the required information on the City's Web site in 2003.</p> <p>Staff reports pertaining to contract awards generally include all or most of the information highlighted by the Auditor. To ensure compliance, staff will develop a new template for contract award reports that more clearly presents the required information to Committees and Council.</p>

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<p>19. The Chief Administrative Officer:</p> <ul style="list-style-type: none"> (i) ensure that City staff sign an annual declaration acknowledging that they understand and agree to the terms and conditions contained in the City's Conflict of Interest policy, as well as the consequences of non compliance; (ii) send an annual notice to all City staff reiterating the City's Conflict of Interest policy; (iii) on an annual basis, forward the Code of Conduct for Members of Council, Conflict of Interest Policy and the Fraud Policy to the Ethics Steering Committee, requesting their direction on whether these policies are clear and current, and recommend any revisions to Council for approval; and (iv) amend the Lobbyist Disclosure Policy such that the policy applies to all City purchases regardless of dollar amount, so that it is consistent with the voluntary lobbyist registry. 	<p>Since 2002, the CAO has required the Conflict of Interest declaration to be signed by Commissioners and their direct reports. In 2003, the CAO directed Commissioners to roll this out to the manager level.</p> <p>Additionally in 2002, the following memos were sent by the CAO relating to fraud, conflict of interest and/or accountability:</p> <p>Approval of permanent fraud policy hotline (Dec 9/02) Conflict/Christmas gifts (Dec 5/02) Internal Management controls (Sept 20/02) Budget approvals and priorities/accountability (Mar 13/02) Financial Accountability, fraud policy and hotline (Mar 8/02) MFP, Oracle and management controls (Feb 11/02) Implementing Auditor's report re consultants (Jan 7/02)</p> <p>In 2002, the CAO communicated to all City staff about the Conflict of Interest Policy. In addition, the Purchasing Division already sends an annual notice to all Purchasing Division staff and the CFO and Treasurer also sends an annual notice to all Finance staff regarding this policy.</p> <p>The City Clerk will forward applicable policies to the Ethics Committee on an annual basis for their information and any action deemed appropriate.</p> <p>Agreed. However, it should be noted that any awards made by the Bid Committee and staff are to the lowest bidder meeting specifications, where no objections to the award have been received. These awards are generally not subject to lobbying.</p>

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<p>20. The Chief Administrative Officer, in consultation with the Chief Financial Officer and Treasurer, report to the Administration Committee by September 2003, on:</p> <ul style="list-style-type: none"> (i) the costs and benefits of using an external consultant (Fairness Commissioner) on certain City projects, to shadow and attest to the fairness and appropriateness of the procurement process; (ii) the criteria to be used to determine when an external consultant (Fairness Commissioner) should be engaged; and (iii) the reporting relationship for this role. <p>21. Commissioners:</p> <ul style="list-style-type: none"> (i) identify their procurement needs, including the volumes of goods and services required, specifications and deliverables, and the timing of such requirements; and (ii) ensure that this information is communicated to the Purchasing and Materials Management Division and City Legal on a timely basis, allowing for sufficient lead time, such that both the Purchasing and Materials Management Division and City Legal can schedule their respective resources to meet departmental timelines. <p>22. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) post on the City's Intranet a library of previously developed specifications; (ii) develop specifications templates and guidelines which provide information to staff on the nature, type and level of detail required for specifications; and 	<p>This issue will require further study and consultation with Councillors. The CAO and CFO will report to Policy and Finance Committee on the criteria, costs and benefits with respect to the appointment of a Fairness Commissioner.</p> <p>Agreed.</p> <p>Regarding (i) and (ii), the City has developed specifications for the vast majority of ongoing program requirements. These are available from departments and the Purchasing Division. The Purchasing Division and departmental staff will work co-operatively to collect and post these specifications on the Intranet site for use by City staff in preparing RFPs, RFQs and tenders. The Purchasing Division and I&T staff will work together to develop the best method of posting RFPs, RFQs and tenders to the City's external Web site.</p>

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<p>(iii) establish partnerships with other jurisdictions for the sharing of specifications information.</p> <p>23. Commissioners, in consultation with the Chief Financial Officer and Treasurer, establish mechanisms in their respective program areas to ensure that specifications and deliverables in Requests for Quotations, Proposals and Tenders, are clear and complete.</p> <p>24. The Chief Financial Officer and Treasurer:</p> <p>(i) ensure that departments are notified of any changes to call/request documents before the request or call is issued; and</p> <p>(ii) in consultation with departments, make the determination with respect to any changes to the closing date specified in a call/request document.</p> <p>25. The Chief Financial Officer and Treasurer review and report to the Administration Committee by September 2003, on:</p> <p>(i) discontinuing the practice of mailing out call/request documents to suppliers;</p>	<p>The City is already involved in partnerships, as per item (iii), with Universities Purchasing Group, the Toronto District School Board, the GTA Purchasing Group, the Police Purchasing Co-operative and others across North America. Often co-ordinated by the Purchasing Division, some of these have resulted in the sharing of specifications. The Purchasing Division will continue to establish more partnerships.</p> <p>Agreed.</p> <p>The Purchasing Division presently works with departments on refining bid request documents to ensure that these documents reflect all requirements. The division will ensure that final changes are communicated to departments prior to release.</p> <p>This recommendation has significant implications for suppliers who tend to bid on small City projects. Further review and consultation with bidders would be appropriate. Also, the suggested alternatives outlined in the report may result in cost increases for suppliers when bidding on City business opportunities.</p>

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<p>(ii) utilizing the City's Internet Web site or other electronic tendering services, as appropriate, to advertise contract opportunities with the City, and allow interested vendors to download the call/request document;</p> <p>(iii) the purpose, cost and benefits of maintaining a Bidders List in its current form;</p> <p>(iv) the cost savings and revenue implications resulting from changes to the current procurement solicitation process; and</p> <p>(v) an appropriate and effective communication plan to inform suppliers of any changes to the current procurement solicitation process and requirements.</p>	<p>The Purchasing Division has researched the use of MERX. Using systems such as MERX could result in increased suppliers' cost to do business with the City. The use of MERX and other electronic bidding systems will be reviewed and staff will report to Committee in September 2003.</p> <p>Staff will report back to Council, documenting the implications of imposing new fees on bidders and the potential revenue loss to the City in Bidders list and Tender document fees.</p> <p>The current process allows for a fair and open competition for bidders for all City business opportunities in that contract opportunities are advertised on the Internet site. However, documents cannot be downloaded. Consideration will have to be given to how best to deal with suppliers who do not possess the technology to download documents.</p> <p>If the previous recommendation is adopted, a comprehensive communication plan to inform suppliers will be developed and implemented.</p>
<p>26. The Commissioner, Corporate Services, take the necessary action to expedite implementation of procurement initiatives that require information technology assistance and support.</p>	<p>Staff supports this recommendation in principle. The technology needs of the purchasing process should be prioritized relative to the other I&T initiatives currently underway or in the planning stage.</p>

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<p>27. The Chief Financial Officer and Treasurer establish clear parameters and criteria to guide Purchasing and Materials Management Division staff in using less formal procurement processes to obtain price quotations or proposals, taking into consideration the time given to suppliers to respond to calls or requests, the method by which responses are received, and the number of suppliers from which bids or proposals are solicited.</p> <p>28. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) expedite the implementation of purchasing cards in City operations, using a phased-in approach; (ii) develop the necessary policies and procedures with respect to the issuance, use and control of credit and purchasing cards, including consequences for misuse of the cards; (iii) in consultation with Commissioners, ensure that necessary training is provided to all departmental staff responsible for the use and management of the purchasing cards; and (iv) report to the Administration Committee by January 2004, on the status of the purchasing card program, including any costs to administer the program and any benefits realized. 	<p>The current process allows for a fair and open competition for all City business opportunities. If this recommendation is implemented, a policy would need to be developed as all bidders expect to continue to compete on City business. Given the objectives of fair and open competition, clear guidelines will have to be developed to avoid any possible misunderstandings in restricting the number of bidders. Other GTA municipalities also allow 15 days minimum for a call to be in the market, as is the current practice with the Purchasing Division.</p> <p>Agreed. Preliminary planning for the Implementation of a P-Card was completed in early 2002. Staff are planning the first pilot in 2003, with city-wide implementation in 2003/2004. It is anticipated that the use of P-cards will streamline departmental purchasing activity and the accounts payable process.</p>

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<p>29. Commissioners:</p> <ul style="list-style-type: none"> (i) monitor the use of single source purchases in their respective departments with the view to reducing the need to purchase goods and services without going through a competitive process; and (ii) in consultation with the Purchasing and Materials Management Division, properly plan their requirements in order to reduce the single sourcing of purchases. <p>30. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) in consultation with Commissioners, develop a list of sole source goods and services (e.g., TTC tokens, utilities, etc.) that can be processed without completing a sole (single) source request form; (ii) report annually to the Administration Committee outlining, by department: <ul style="list-style-type: none"> - all single source purchases exceeding the Departmental Purchase Order limit and reasons therefor; - percentage of purchase orders processed through the Purchasing Division using single source as justification; - all instances where purchase orders have been issued after the fact; and (iii) post on the City's Web site, all single source contract awards in excess of \$7,500. 	<p>The Purchasing Division supplies departments with quarterly reports on sole (single)-sourcing activities as a tool which may help departments reduce these activities.</p> <p>In 2002, approximately 4 per cent of the dollar value of contract awards (\$42.5M out of \$982.5M) were from sole and single source contracts. These contracts fulfill the requirements of Chapter 195 (Purchasing) of the Municipal Code. If Council adopts this recommendation, these contracts will be listed separately on the City's Web site.</p>

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<p>31. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) monitor purchasing activity, including Departmental Purchase Orders issued by departments, and work with departments to identify opportunities to consolidate the procurement of common goods and services; (ii) in consultation with departments, be more proactive in identifying potential opportunities to utilize blanket contract agreements for goods and services, to more efficiently meet the needs of departments, including emergency requirements; (iii) further explore opportunities to enter into co-operative purchasing agreements with the City's Agencies, Boards and Commissions, other municipalities, public organizations, and other levels of government. 	<p>Since amalgamation, departmental and Purchasing Division staff have worked cooperatively to identify opportunities to consolidate common procurement initiatives. Staff will continue to pursue more opportunities to utilize blanket contract agreements to more efficiently meet the needs of departments, including emergency requirements. Staff will also continue to canvass departments for opportunities to consolidate departmental purchases.</p> <p>As noted above, opportunities have already been, and continue to be explored by the Purchasing Division. Currently, the Purchasing Division is involved in purchasing partnerships with the Universities Purchasing Group, the Police Co-op Purchasing Group, and continues to make joint purchases with Toronto Zoo, Toronto Transit Commission and the Toronto District School Board. In addition, the Purchasing Division is assisting Works & Emergency Services in forming a joint purchasing group with other jurisdictions to jointly purchase items needed for emergency operations.</p> <p>The Purchasing Division also chairs the GTA Purchasing Group. However, the group members have decided that the major focus of the group is to be information sharing and there has been no joint purchases made to date.</p> <p>It should be noted that since the Purchasing Division is one of the largest government purchasing bodies in Canada, City volumes for purchases are much higher than other participants and the City therefore receives little benefit from participation in joint purchases.</p> <p>Benefits are experienced by small purchasing bodies who participate as they get bulk price discounts by adding their requirements to the City's requirements.</p>

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<p>32. The Commissioner of Corporate Services, in consultation with the Chief Financial Officer and Treasurer, report to the Administration Committee by March 2004 with respect to the effectiveness of the Information Technology Acquisition procedures.</p> <p>33. The Chief Financial Officer and Treasurer, in consultation with Commissioners, re-establish a Purchasing Client Reference Group to deal with procurement issues.</p> <p>34. The City Solicitor, in consultation with the Chief Financial Officer and Treasurer, and Commissioners:</p> <ul style="list-style-type: none"> (i) develop criteria and guidelines outlining the circumstances in which a formal contract is required; and (ii) develop a standard contract template to be used and executed by departments for straightforward purchases, and where there is no negotiation involved with respect to the terms and conditions in the bid document. <p>35. The Chief Financial Officer and Treasurer, in consultation with the City Solicitor develop:</p> <ul style="list-style-type: none"> (i) a corporate policy that outlines when Bid Bonds and Performance Bonds are required and the type of security that is acceptable; and (ii) a process to determine the dollar value of the security requested, taking into account the nature of goods or services to be provided, the magnitude of the contract and the risks involved, to ensure that the interests of the City are adequately protected. 	<p>Agreed.</p> <p>A Purchasing Client Reference Group was established in 1999 and met regularly until the summer of 2002. Staff turnover temporarily halted meetings. Staff agree that this group is an opportunity to assist in implementing the recommendations of this report and will take steps to re-establish the Group.</p> <p>Agreed.</p> <p>Agreed. Departments, Purchasing Division and Risk Management review the nature of purchases to determine the type of bonding requirements. The Auditor is correct in pointing out that this process requires better coordination to ensure that the interests of the City are adequately protected and a policy will be developed.</p>

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<p>36. The Chief Administrative Officer, in consultation with the City Solicitor:</p> <ul style="list-style-type: none"> (i) clarify the roles and responsibilities of City Legal, the Chief Financial Officer and Treasurer, City Clerk, and Commissioners in the contract execution process and ensure that the responsibilities and rationale are clearly communicated to all staff involved; and (ii) develop mechanisms and assign clear responsibility for ensuring the decisions of Bid Committee, Standing Committee and Council are accurately reflected in the purchase order or contract, and that the necessary authority exists to enter into the agreement. <p>37. The Chief Administrative Officer, in consultation with the Chief Financial Officer and City Clerk, establish a central repository for all contract signing and other procurement authorities delegated to departmental staff.</p> <p>38. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) report to the Administration Committee by September 2003 on the control mechanisms in place or to be implemented to prevent contracts from being over-spent, including the benefits and resource implications of processing contract release orders, both at the dollar value and commodity level, and explore other viable options, such as potential system modifications to achieve this objective; and (ii) develop appropriate interim mechanisms to prevent contracts from being over-spent. 	<p>These clarifications will be contained in the Purchasing Bulletins and in the Purchasing Manual.</p> <p>Purchasing Division staff has been instructed to ensure that decisions of Committees/Council are reflected in the PO's or blanket contracts to ensure that authority exists to enter into an agreement. Mechanisms will be developed to ensure that there are checks in place to ensure that this is done.</p> <p>Agreed.</p> <p>The CFO and Treasurer, in co-operation with Department Heads, have implemented reports/warning messages in the Financial Information System to monitor/control contract expenditures exceeding 80 per cent of the original contract amount. Further contract system monitoring initiatives are underway in order to prevent contract over expenditures. Staff will report on the progress of this initiative to Administration Committee in September 2003.</p>

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<p>39. The Chief Financial Officer and Treasurer, in consultation with Commissioners, identify the procurement information needs of the Purchasing and Materials Management Division and departments, and take the necessary action to cost-effectively obtain the information required, in order to enable the effective management of procurement activities.</p>	<p>Agreed.</p>
<p>40. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) in consultation with departments, establish separate blanket contracts for each individual department in accordance with the terms and conditions provided in the master agreement for the respective goods and services; and (ii) establish mechanisms to prevent department specific blanket contracts from being accessed by other departments. 	<p>The CFO and Treasurer is presently working with departments to utilize the City's existing financial systems to assist departments in better managing the allocations of blanket contracts.</p>
<p>41. The Chief Financial Officer and Treasurer:</p> <ul style="list-style-type: none"> (i) ensure that all purchase orders and contracts issued specify the prices and/or rates to be charged; and (ii) request suppliers to provide adequate details on the invoices, specifying the rates/prices charged and goods/services provided. 	<p>We agree. However, there are limited situations where this might occur, e. g. repairs. It is normal practice to ensure that all of the above is attained. In a small minority of cases this is difficult because the amount or type of service required is unknown, but purchase orders and contracts all contain a dollar limit.</p>
<p>42. The proposed Water and Wastewater Committee be governed under the Toronto Municipal Code, Chapters 71 (Financial Control) and 195 (Purchasing), and be delegated the same level of contract award and procurement authority as other standing committees in the City.</p>	<p>Agreed.</p>

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<p>43. The Chief Financial Officer and Treasurer report to the Administration Committee by July 2003 on:</p> <ul style="list-style-type: none">(i) a prescribed time line and or standard payment term for the payment of all City accounts; and(ii) action taken or to be taken to ensure that accounts are paid within the prescribed time line, including any changes in processes and resources required.	<p>Agreed. The Finance Department has made some improvements in reducing outstanding accounts payable, and increasing payments made within 30-60 days. In addition, an enhanced accounts payable process (3-way matching) is being implemented, which along with the P-Card implementation, will significantly reduce the number and time line for payment of accounts in 2003.</p>
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