Amendments to the Purchasing By-law and the Procurement Processes Policy

GMC – June 13, 2016
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PMMMD Transformational Projects

- In addition to today’s report, PMMMD is involved in three other major transformational projects in 2016
  - Social Procurement Program
  - Supply Chain Management Transformation
  - PMMMD Program Review
Purchasing By-law Revisions

• Why are we here?
  – Overdue on the five year review
  – Preparing for upcoming trade agreements
  – Adopting a Supplier Code of Conduct
    • Consistent with Charbonneau Commission and Bellamy Inquiry
  – Aligning with the Province’s BPS Procurement Directive
  – Providing clarity to the Purchasing By-law
Trade Agreements

• Comprehensive Economic Trade Agreement (CETA)
  – Ratification date unknown; expected end of 2016 or early 2017
  – Applies to G&S over $340k approx., and construction over $8.5m

• Ontario Quebec Trade and Cooperation Agreement (OQTCA)
  – In effect for municipalities September 1, 2016
  – Based on CETA but lower thresholds - $100k for both

Revisions to the Purchasing By-law
Trade Agreements

• Provisions added/changed to address:
  – Application and Exemptions
  – Open Competitive Procurement above $100k
  – Non-Discrimination Provision
  – Timelines & Notice of Intended Procurements
    • CETA requires 40 days on market from Notice of Intended Procurement posted
    • Ways exist to reduce timelines down to 10 days
  – Negotiations

Revisions to the Purchasing By-law
Trade Agreements

• Provisions added/changed to address:
  – Non-Competitive Exceptions
  – Pre-Award Disputes
  – Post-Award Disputes
  – Single point of Electronic Access
## Reinforcing Ethics

<table>
<thead>
<tr>
<th>Honesty and Good Faith</th>
<th>Gifts or Favours Prohibited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confidentiality</td>
<td>Misrepresentations Prohibited</td>
</tr>
<tr>
<td>Conflicts of Interest &amp; Unfair Advantage</td>
<td>Prohibition Communication during Solicitation (Blackout period)</td>
</tr>
<tr>
<td>Collusion or Unethical Bidding Practices</td>
<td>Failure to Honour Bid</td>
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<tr>
<td>Illegality</td>
<td>Past Performance</td>
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<tr>
<td>Interference Prohibited</td>
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Reinforcing Ethics

• New Provisions to allow:
  – The Treasurer, in consultation with the City Solicitor, may disqualify a supplier who are in ongoing litigation with the City related to a contract awarded by the City
  – the Chief Purchasing Official to disqualify a supplier for a breach of the code, or to terminate a contract
  – the Chief Purchasing Official to temporarily suspend a supplier for six months for a breach of the code
  – Council can suspend suppliers for 1 to 5 years for poor performance or for breaches of the code

• Revised Employee Ethics provision to align with the Toronto Public Service By-law
Aligning with BPS Procurement Directive

• Most of the changes in the Procurement Processes Policy
  – Includes new sections on Divisions’ responsibilities*
  – Table on Segregation of Duties
  – Sections on:
    • Evaluations of submissions & evaluation teams
    • Supplier debriefing
    • Contract management/administration

Revisions to the Purchasing By-law
Clarity to the Purchasing By-law

• Revised existing sections on Award Authority to make it easier to understand

• Revised Bid Committee by:
  – Renaming it to Bid Award Panel
  – Changing the composition of the membership

• Authority levels to award are unchanged
Comparison to other Municipalities – Award Levels

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Tenders/RFQs</th>
<th>RFPs</th>
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</thead>
<tbody>
<tr>
<td>Toronto - $2.8 B</td>
<td>CPO – up to $500k - Bid Award Panel – $500 to $20m* Standing Committee - $20 million+</td>
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</tr>
<tr>
<td>Peel - $710m</td>
<td>Staff – unlimited</td>
<td>Staff up to $500k - Council 500k+</td>
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<tr>
<td>Brampton - $203m</td>
<td>Staff - Unlimited</td>
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<tr>
<td>Mississauga - $164m</td>
<td>Staff - Unlimited</td>
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<tr>
<td>Ottawa - $1.1 B</td>
<td>Staff - Unlimited</td>
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<tr>
<td>York Region - $452m</td>
<td>Staff – Unlimited</td>
<td>Staff up to $2million Council - $2million +</td>
</tr>
<tr>
<td>Edmonton - $700m</td>
<td>CPO – up to $20m - Council - $20m+</td>
<td></td>
</tr>
<tr>
<td>Calgary - $600m</td>
<td>Staff - Unlimited</td>
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Other Consequential Amendments

• Social Procurement Policy
  – Expansion of improving access to the procurement process for diverse suppliers between $50,000 and $100,000

• Access to Information for Members of Council at Various Stages of the Procurement Process
  – Remove reference to requiring Council approval for industry consultations

• Repeal two policies related to conflict of interest
  – Excluding Bids from External Parties Involved in Preparation of Call Document
  – Restrictions on Hiring and Use of Former City Management Employees

Revisions to the Purchasing By-law
Next Steps

• Revised Purchasing By-law, Procurement Processes Policy and consequential amendments will come into effect on January 1, 2017

• Purchasing and Materials Management and Legal Services will work on revising existing procedures and creating new procedures to reflect the changes to the by-law and policies.
Conclusion

• All of our projects are underway:
  – Revising the Purchasing By-law
  – Implementing Social procurement
  – Automating the Supply chain process
  – Examining how to reorganize to provide strategic sourcing of key goods & services, improve service, improve performance metrics

• All the projects will help us transform how we procure, manage and pay for goods and services at the City