

RE:GM13.13

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

GMC – June 13, 2016

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Management

PMMD Transformational Projects

- In addition to today's report, PMMD is involved in three other major transformational projects in 2016
 - Social Procurement Program
 - Supply Chain Management Transformation
 - PMMD 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

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

Trade Agreements

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

Reinforcing Ethics

Honesty and Good Faith	Gifts or Favours Prohibited
Confidentiality	Misrepresentations Prohibited
Conflicts of Interest & Unfair Advantage	Prohibition Communication during Solicitation (Blackout period)
Collusion or Unethical Bidding Practices	Failure to Honour Bid
Illegality	Past Performance
Interference Prohibited	

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

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

Municipality	Tenders/RFQs	RFPs
Toronto - \$2.8 B	CPO – up to \$500k - Bid Award Panel – \$500 to \$20m* Standing Committee - \$20 million+	
Peel - \$710m	Staff – unlimited	Staff up to \$500k - Council 500k+
Brampton - \$203m Mississauga - \$164m	Staff - Unlimited	
Ottawa - \$1.1 B	Staff - Unlimited	
York Region - \$452m	Staff – Unlimited	Staff up to \$2million Council - \$2million +
Edmonton - \$700m	CPO – up to \$20m - Council - \$20m+	
Calgary - \$600m	Staff - Unlimited	

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

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