

Amendments to Toronto Municipal Code, Chapter 195, Purchasing, and Review of Open Contracting Global Principles and the Role of an Inspector General

Date: November 22, 2023

To: General Government Committee

From: Chief Procurement Officer

Wards: All Wards

SUMMARY

The purpose of this report is to recommend amendments to Toronto Municipal Code Chapter 195, Purchasing (the Purchasing Bylaw). This report also responds to a request from City Council to report on the possibility of adopting the Open Contracting Global Principles and the role of an Inspector General.

The Purchasing Bylaw was last reviewed in 2016, and the current Purchasing Bylaw was enacted on January 1, 2017. In accordance with Chapter 195, Section 3.1(R), the Bylaw is required to be reviewed every five years. The review, which had been scheduled for 2020 and 2021, was delayed due to the COVID-19 pandemic. Purchasing and Materials Management Division (PMMD) initiated a review in 2022 and this report recommends a number of changes resulting from that review:

- Renaming the Toronto Municipal Code Chapter 195 to Procurement
- Increasing Chief Procurement Officer and division head authority to process limited solicitations
- Clarifying the beginning of the Blackout Period during the procurement process
- Extending the Chief Procurement Officer's authority to cancel a procurement
- Clarifying the need for appropriate consultation, authority and responsibility to negotiate certain provisions in contracts
- Administrative or 'housekeeping' amendments for a more concise and easier to interpret bylaw

RECOMMENDATIONS

The Chief Procurement Officer recommends that:

1. City Council amend Municipal Code Chapter 195, Purchasing, as set out in Attachment “1” to this report, effective July 1, 2024 (the “Effective Date”).
2. City Council direct the Chief Procurement Officer to report back to City Council prior to the Effective Date on updates to Council-approved policies that are required to implement the recommended changes.
3. City Council direct the Chief Procurement Officer to review the role of the Bid Award Panel and report on recommendations for improving its function and oversight in the procurement process.
4. City Council repeal the *Procurement Activities of the Printing and Distribution Unit into Technical Compliance with Chapter 195 policy*, which will become redundant as a result of the adoption of the other recommendations in this report.

FINANCIAL IMPACT

There are no financial implications arising from this report.

Funding approval for procurement processes is contemplated through the annual Operating and Capital Budgets.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information presented in the Financial Impact Section.

DECISION HISTORY

At its meeting on July 19 and 20, 2023, City Council adopted [AU2.5 - A Review of the Procurement and Award of the Winter Maintenance Performance-Based Contracts](#), which requested that the review of Toronto Municipal Code Chapter 195, Article 10, take into consideration any outcomes or recommendations related to the City Council-directed review of the potential for an Inspector General for the City of Toronto.

At its meeting on January 20, 2023, the General Government Committee adopted [GG1.1, General Government Committee Overview](#), which requested the Chief Financial Officer and Treasurer to report back to the General Government Committee on the possibility of Toronto adopting the Open Contracting Global Principles and an Inspector General, as part of the report on Chapter 195.

At its meeting on December 14 and 15, 2022, City Council adopted [CC2.2, Report on an Inquiry for Prohibited Communications on a Request for Proposal](#), which reported

that the Lobbyist Registrar and Purchasing and Materials Management Division were working together to update their complimentary Bylaw sections and documentation to reflect the Notice of Intended Procurement as a trigger for the start of the Blackout Period.

At its meeting on November 9, 10 and 12, 2021, City Council adopted [GL26.6, Review of Open Contracting Global Principles](#), which directed the Chief Procurement Officer to include a review of how the purchasing policies conform to Open Contracting Global Principles in a review and report on the Purchasing Bylaw.

At its meeting on July 12, 13, 14 and 15, 2016, City Council adopted [GM13.13, Amendments to the Purchasing By-Law and Procurement Processes Policy](#), which amended Municipal Code Chapter 195, Purchasing in order to adopt a Supplier Code of Conduct, be prepared for upcoming trade agreements, align with the Province of Ontario's Broader Public Sector Procurement Directive as a leading practice, and improve the clarity of the Purchasing Bylaw. The Procurement Processes Policy that was adopted included authority for the Chief Procurement Officer to process non-competitive procurements up to \$500,000. A decision history on previous amendments to Chapter 195 is included in this report.

COMMENTS

Recommended Revisions to Chapter 195, Purchasing

The current version of the Purchasing Bylaw came into force on January 1, 2017. In accordance with Chapter 195, Section 3.1(R), the Bylaw is required to be reviewed every five years. The review, which had been scheduled for 2020 and 2021, was delayed due to the COVID-19 pandemic. Purchasing and Materials Management Division (PMMD) initiated a review in 2022. The review identified a number of required amendments. This report recommends a set of amendments that clarify and streamline the Bylaw and provide for administrative efficiencies. The revisions recommended in this report will ensure the City's procurement process is responsive to the business needs of divisions while continuing to support open, fair and transparent procurement practices. A second phase of review will follow the implementation of these recommended amendments to address areas that require additional research and consultation.

Renaming the Toronto Municipal Code Chapter 195 to Procurement

This report recommends renaming Municipal Code Chapter 195 from Purchasing to Procurement. Procurement better reflects the increasingly strategic nature of work undertaken by PMMD and City Divisions when acquiring goods and services, including category management, strategic sourcing and leveraging regional approaches to deliver best value.

Increasing Chief Procurement Officer and division head authority to process limited solicitations

Currently, Section 7.3 of the Purchasing Bylaw sets out limited solicitation contract authority, which is further set out in Sections 3.1(B), 4.1(D) and 11.1(G). Limited solicitations are a solicitation method where one or more suppliers of the City's choice are invited and given an equal opportunity to bid on the solicitation. Divisions can process limited solicitations between \$3,000 and \$50,000. These are governed by the *Divisional Purchase Order (DPO) Procedure*. The *DPO Procedure* allows for PMMD to review and approve any DPO where the lowest compliant bid exceeds the DPO maximum by no more than 20%. Limited solicitations between \$50,000 and \$100,000 are processed by PMMD, on behalf of divisions. In addition, divisions must not process an invitational solicitation for procurements between \$3,000 and \$50,000 if the solicitation method required is a Request for Proposals, if the purchase is of a complex nature or if the division does not have sufficient trained resources to conduct the DPO process. The *Invitational Solicitation Procedure* governs these procurements.

Beyond the Purchasing Bylaw, the Chief Procurement Officer's authority is limited by national and international trade agreements that set out procurement values over which solicitations must be posted publicly to allow for open competition. There are several trade agreements impacting the City. The Canada Free Trade Agreement (CFTA) currently sets out the most restrictive values. These values are updated every two years, with the next update set for January 1, 2024 when the thresholds will increase to \$133,800 for goods and services and \$334,400 for construction services. This report recommends updating the Purchasing Bylaw to provide authority for the Chief Procurement Officer to process limited solicitations for any procurement under \$133,800 and to publish a Notice of Intended Procurement only for those open competitive procurements valued over \$133,800. The Chief Procurement Officer's authority will not change to process limited solicitations up to \$500,000 where the confidential nature of the requirements is such that it would not be in the public interest to solicit competitive bids.

The current threshold under which divisions may process limited solicitations has been in effect for nearly 15 years, during which time the cost of goods and services has increased significantly. Based on current market conditions and to support PMMD's ability to lead increasingly strategic procurements, this report recommends updating the authority for division heads to process limited solicitations and issue DPOs up to \$120,000, provided that the award value is within the division head's commitment authority under Chapter 71, Financial Control. PMMD will no longer process low-value limited solicitations unless requested by a division head. The additional Chief Procurement Officer authority will allow PMMD to review and approve any DPO where the lowest compliant bid exceeds \$120,000 but does not exceed \$133,800 to reduce the need to cancel solicitations where there is a small variance from the estimated value. The 20% allowance for the Chief Procurement Officer to review and approve DPOs where the lowest compliant bid exceeds the DPO maximum will reduce to 11.5% because of the CFTA limits and to align with PMMD processing fewer low-value limited solicitations.

In 2001, City Council authorized the City Clerk's Printing and Distribution Unit (now the Information Production Unit) to obtain competitive quotes for print production services

valued up to \$100,000. The associated policy will be made redundant through the recommended changes to division head limited procurement authority in the Purchasing Bylaw. As such, this report recommends repealing the policy: *Procurement Activities of the Printing and Distribution Unit into Technical Compliance with Chapter 195.*

Table 1 presents a summary of the changes described above.

Table 1: Limited Procurement Authority Threshold Changes

Authority Type	Current Threshold	Recommended Change
Chief Procurement Officer - any procurement	\$100,000	\$133,800
Chief Procurement Officer - confidential requirements	\$500,000	\$500,000
Division head - divisional procurement	\$50,000	\$120,000
City Clerk's Information Production Unit - print production services	\$100,000	\$120,000 (through standard division head authority)
Allowance for the Chief Procurement Officer to process DPOs that exceed division head authority	20%	11.5%

Clarifying the beginning of the Blackout Period during the procurement process

The time from when a solicitation is issued, through to the formal acceptance of a bid, and the resulting signed written contract between the City and the successful supplier is referred to as the Blackout Period. During the Blackout Period, communications regarding a procurement are restricted to the Chief Procurement Officer or the employee specifically designated for that purpose in the solicitation. Communications with any other public office holders during the Blackout Period are contraventions of the Lobbying Bylaw.

In December 2022, the Lobbyist Registrar reported to Council on an Inquiry for Prohibited Communications on a Request for Proposal. Through the inquiry, the Lobbyist Registrar noted that there is opportunity to clarify what triggers and ends a Blackout Period in the Purchasing Bylaw by stating specifically that the publication of a Notice of Intended Procurement is a trigger for a Blackout Period. This report recommends making this clarification.

Extending the Chief Procurement Officer's authority to cancel a procurement

Section 9.1 of the Purchasing Bylaw authorizes the Chief Procurement Officer to cancel a solicitation for a number of specific reasons. This report recommends adding additional reasons, including authorizing the Chief Procurement Officer to cancel a

solicitation when the integrity of the solicitation process has been compromised as a result of uncertainty, lack of clarity, potential confusion or ambiguity in the drafting of a solicitation or when there has been a lack of equal access to significant information relative to the solicitation and to cancel a solicitation when there is a legitimate business and legal risk to the City. This recommendation responds to some recent procurements where these kinds of drafting issues arose in a solicitation that had already closed and where they could not be addressed through the addendum process and, as such, there was a need to cancel and reissue the solicitation although the reasons for doing so did not squarely fit within the existing reasons set out in the Purchasing Bylaw. There have also been a few occasions when there was a need to cancel a solicitation for legitimate business and risk needs. These circumstances are limited, but clear authority for the Chief Procurement Officer to cancel a procurement will ensure timely management of the procurement process when issues do arise.

Clarifying the need for appropriate consultation, authority and responsibility to negotiate certain provisions in contracts

Section 4.1(F) and (G) of the Purchasing Bylaw sets out division heads' responsibility to ensure that all technical specifications and requirements are included in solicitations and to direct and oversee the management of all contracts. A gap between existing practice and the Purchasing Bylaw was identified with respect to the identification of similar division head responsibilities for the negotiation and execution of contracts arising from procurement process. This report recommends clarifying a division head's authority to negotiate and execute contracts arising from a solicitation.

In addition, this report recommends adding a new responsibility for division heads to consult with the Insurance and Risk Management Division of the City to ensure that the insurance provisions within the form of contract appropriately reflect a risk assessment in line with the goods and services being procured, which will enhance controls on contract negotiations and provide for consistency across divisions. The report also recommends adding a new responsibility for division head to consult with Technology Services Division and the Office of the Chief Information Security Officer if the goods or services include any technology goods or services to ensure appropriate oversight, due diligence, risk management and alignment with technology standards.

Administrative or 'housekeeping' amendments for a more concise and easier to interpret Bylaw

Alongside the more substantial proposed amendments above, the Purchasing Bylaw includes recommended changes to provide for greater clarity and readability. The proposed changes include defining new terms and improving existing definitions and provisions for clarity. The changes will provide greater consistency in interpreting and administering the Purchasing Bylaw.

In addition, in the 2016 amendments to the Purchasing Bylaw and Procurement Processes Policy, City Council delegated authority to the Chief Procurement Officer to process non-competitive contracts up to \$500,000 through the Council-approved Procurement Processes Policy, but this change was not made in the Purchasing Bylaw at the same time. This report recommends reflecting existing authorities and current

practice by updating the Chief Procurement Officer's authority to process non-competitive contracts up to \$500,000 in the Purchasing Bylaw.

Implementing the Recommended Changes

This report recommends that changes to the Purchasing Bylaw take effect on July 1, 2024. A number of the updates require substantial revisions to policy and procedure, training materials and systems. In particular, the changes to the limited solicitation thresholds will take time to implement and will impact the Procurement Processes Policy and Social Procurement Policy, along with other procedure documents. PMMD will report back to City Council prior to July 1, 2024 on updates to policies requiring Council's approval that are required to implement the recommended changes.

Future Phase of the Procurement Bylaw Review

The Purchasing Bylaw review identified a number of areas that require additional research and consultation. PMMD has planned a second phase of work that will focus on strategic updates that could be made to the Bylaw, procurement policies and procedures.

Some areas of review include:

- **Bid Award Panel:** Bid Award Panel is an administrative committee that awards contracts under limits established by Council and set out in the Purchasing Bylaw. This report recommends that Council direct the Chief Procurement Officer to review the role of the Bid Award Panel to determine if it effectively serves its intended purpose.
- **Municipal Code Chapter 71, Schedule A:** There are a number of procurement exemptions set out in Schedule A of Municipal Code Chapter 71, Financial Control. It is important for funding or payment authority to be clearly distinguished from procurement award authority. A review of each exemption in the Financial Control Bylaw will determine which would fit better in the Purchasing Bylaw. This work is being done in conjunction with the Office of the Controller.
- **Pre- and post-award bid disputes:** The Purchasing Bylaw sets out circumstances in which the Chief Procurement Officer and the Controller review pre- and post-award bid disputes. Additional review will clarify when an alternate City Official should be designated to review pre- and post-award bid disputes and whether this clarification should be included in the Purchasing Bylaw, the Pre-Award and Post-Award Bid Dispute Procedure or both.
- **Alignment with the Financial System Transformation Project (FSTP):** Additional revisions to the Purchasing Bylaw are anticipated in support of FSTP and the implementation of SAP Ariba, the City's electronic tendering system, Buying and Invoicing Module.
- **Supplier Code of Conduct:** The Supplier Code of Conduct is currently set out in Article 13 of the Purchasing Bylaw. A review will determine opportunities to make the

Supplier Code of Conduct more robust and to align it more closely with corporate strategies such as TransformTO and the Reconciliation Action Plan.

- Decolonizing procurement processes: The Reconciliation Action Plan includes actions relating to decolonizing the procurement process. As a Reconciliation Audit is conducted, revisions to the Purchasing Bylaw are anticipated to support implementation of the audit results.

Open Contracting Global Principles

At its meeting on January 20, 2023, the General Government Committee requested the Chief Financial Officer and Treasurer to report back to the General Government Committee on the possibility of Toronto adopting Open Contracting Global Principles.

The Open Contracting Partnership (OCP) is an international non-profit organization that works to promote open and transparent procurement practices. The objective of the organization is to combine open data and open government to ensure public money is spent openly, fairly, and effectively within public contracts.

The OCP created the Open Contracting Global Principles (OCGP) as a guide for governments and other stakeholders to affirmatively disclose documents and information related to the form, award, execution, performance and completion of public contracts in a user-friendly and open-access format. The OCGP are intended to increase public participation in public contracting through increased transparency and enable understanding, effective monitoring, efficient performance, and accountability for outcomes. The OCGP are intended to be adapted to sector-specific and local contexts.

The City's Purchasing Process and Affirmative Disclosure

The City's [Open Data Policy](#) outlines the principles, roles, and responsibilities related to the City of Toronto's efforts to make data routinely available in machine-readable formats for any public use. The purpose of the *Open Data Policy* is to remove barriers and set the rules by which City of Toronto data is made available to the public as valuable, machine-readable datasets. PMMD's [Routine Disclosure Plan](#) details the type of information and medium of communication to be used to proactively deliver procurement information to the public.

The City's [purchasing policies and legislation governing the procurement process](#) is publicly available online. Public contracts, especially those that involve the collection, use, or disclosure of public information must be compliant with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and the Personal Health Information Protection Act (PHIPA).

Notices of Intended Procurement for procurements valued over \$100,000 and for Requests for Supplier Qualification for Selective Solicitations are published on an [online call document system](#) and on the City's electronic tendering system (SAP Ariba). The online call document system will be replaced in January 2024 by a T.O. Bids application. Information on the change will be available on the [Doing Business with the City webpage](#).

Information regarding award of contracts is publicly accessible on the City's [Open Data Portal](#). When requested through a [Freedom of Information Request](#), divisions make additional information available to the public, including the contents of any bid, proposal or submission, except for information that must be protected from disclosure under the provisions of MFIPPA and PHIPA. Confidentiality clauses, such as non-disclosure agreements, are used in specific and limited situations.

[Supplier performance evaluation tools](#) are publicly available. In instances of contravention of the Purchasing Bylaw or the Fair Wage Bylaw that result in supplier suspension, the supplier's name, status, start and end date of suspension, and type of suspension are [publicly posted](#).

Current Published Datasets

The City currently publishes the below datasets to provide accountability and transparency in the procurement process.

Data	Data feature	Location	Format
Non-Competitive Contracts	<ul style="list-style-type: none"> • Request Number • Client Division • Description of the purchase • Name of awarded supplier • Contract amount • Date of award 	Open Data Portal	XML
Competitive Contracts	<ul style="list-style-type: none"> • Commodity • Commodity type • Call number • Short description • Contract amount • Date of award 	Open Data Portal	XML
Solicitations for the purchase of goods and services	<ul style="list-style-type: none"> • Commodity • Commodity type • Call number • Type of solicitation • Short description • Issue date • Closing date • Pre-bid meeting information • Name of PMMD buyer • Buyer contact information • Client Division • All attachments 	Open Data Portal	XML

Data	Data feature	Location	Format
Procurement Metrics	<ul style="list-style-type: none"> • Number of competitive solicitations issued by year • Average procurement cycle time • Number of non-competitive procurements • Warehouse inventory • Divisional Purchase Orders 	Procurement Metrics Webpage	HTML

The City's Purchasing Process and Participation, Monitoring, and Oversight

The City engages the public in the planning of large scale and significant projects through public consultation. The public can present their views on projects and contract awards through deputations at Standing Committees.

To support businesses and residents to understand the procurement process, PMMD offers [monthly information sessions](#) on doing business with the City. In addition, general technical support and guidance for suppliers on using the City's procurement platform is available by phone and email. Contact information is posted on the [Follow Up on City Contracts webpage](#).

PMMD's [Complaints Handling Procedure](#) is posted with the staff directory and details the process to make a complaint or compliment regarding the level of service provided by PMMD. The City's procurement oversight mechanisms are detailed in the next section of this report.

Conclusions on Adopting Open Contracting Global Principles in Toronto

Staff reviewed the Purchasing Bylaw and publicly available information on the procurement process against the Open Contracting Global Principles and have found general alignment with the OCGP. PMMD aims to be a leader in creating equitable, transparent, and accessible procurement policies. The Purchasing Bylaw, the Procurement Processes Policy and other procurement policies are grounded on the principles of conducting procurement in a fair, open and transparent manner, which at its core is the foundation of OCGP.

While staff did not identify any significant changes required to the Purchasing Bylaw, there are certain open contracting practices, such as publishing contract amendments and disclosure of low-value procurements under \$100,000, that PMMD will explore further. Staff will continue to balance opportunities for public disclosure and greater procurement transparency with the need to maintain the City's position as a preferred business partner by not compromising the competitive position of suppliers.

The Role of an Inspector General in Toronto

At its meeting on January 20, 2023, the General Government Committee requested the Chief Financial Officer and Treasurer to report back to the General Government Committee on the possibility of Toronto adopting an Inspector General. The Chief Procurement Officer and PMMD staff met with Montréal's Inspector General and completed additional research to determine how the controls on the procurement process that exist through Montréal's Office of the Inspector General are replicated in Toronto and whether there are any gaps in oversight.

Montréal's Office of the Inspector General

On June 13, 2014, the function of the Inspector General was created in the City of Montréal, the only one of its kind in Canada. The jurisdictional authority of the Inspector General is bound within the City of Montréal and does not extend into the demerged cities on the Island of Montréal.

The Office of the Inspector General was created by the Province of Québec in response to the Charbonneau Commission, in order to prevent corruption and provide additional oversight on the bidding, award process and the execution of contracts brought to the Inspector General's attention. The role of the Inspector General in the City of Montréal was designed to mirror the Inspector General role in Chicago, which at the time was dealing with similar issues to those raised by the Charbonneau Commission.

The Inspector General's purpose is to ensure integrity throughout the awarding and carrying out of public contracts. The Inspector General also trains council members, officers, and employees to recognize and prevent any violation of contracting rules by the City.

The Office of the Inspector General is an investigative office that focuses on detection, intervention, monitoring and publication of reports. The Inspector General annually analyzes critical sectors that are susceptible to corruption, reviews budgets and receives input from employees, councillors, citizens, and contractors to focus their inspections.

The Office of the Inspector General's mandate includes the following:

- Oversee the contracting process and the manner in which the contract is carried out by the City or by a related legal person;
- Recommend measures to Council that would prevent a breach of integrity in contracting by the City as well as measures designed to ensure compliance with applicable legal provisions regarding the contracting process;
- Verify the application of measures adopted by any council within the City; and,
- Train council members, officers, and employees to recognize and prevent any violations of applicable rules.

The Inspector General can investigate and conduct an audit of the contracting process by examining any books, registers, or records. This includes all electronic devices. Non-compliance with a request for examination can result in a charge of obstructing the Inspector General's work and a fine as prescribed by Section 57.1.16 of the Charter of

Ville de Montréal, metropolis of Québec. In 2022, the Office of the Inspector General began systemically checking specifications on public calls for tenders for requirements that would limit competition. The Inspector General also has the power to cancel, rescind and suspend an award under two circumstances:

- If the Inspector General finds that a requirement specified in a call document has not been met or false information was provided during the contracting process; and
- The Inspector General believes that the seriousness of the breach justifies cancellation, rescinding or suspension.

City of Toronto Accountability Officers and the Procurement Process

The City of Toronto has four Accountability Officers with various degrees of oversight of the City's procurement process. They are all neutral, independent officers appointed by City Council; however, they operate independently of City Council and City Administration. Accountability Officers report annually to Council on the activities of their office, as well as on any investigations and inquiries conducted by the Accountability Officer and their office. Although their roles, responsibilities and mandates vary, the roles ensure that confidence, transparency and trust are maintained throughout the City's administrative and service delivery structure. The Accountability Officers cooperate with one another to support the act of advising, interpreting or conducting inquiries and investigations. The role and mandate of Accountability Officers may be reviewed and adjusted by Council periodically.

The Auditor General

The Auditor General is responsible for carrying out financial, compliance and performance audits of all the City's functions and activities, including procurement. The Auditor General can conduct procurement-related audits to determine the effectiveness of compliance mechanisms, procurement policies and procedures and provide recommendations to improve efficiency and cost-effectiveness. The Auditor General submits audit-related reports to Council through the Audit Committee. Council has the authority to assign other audit-related duties for the Auditor General to perform.

The Integrity Commissioner

The Integrity Commissioner's mandate is focused on the conduct of members of Council and local boards (restricted definition). The Integrity Commissioner provides confidential advice, conducts investigations, and provides educational programs to Council and local boards (restricted definition) on issues of ethics and integrity.

The Integrity Commissioner may investigate a procurement-related issue upon receipt of a complaint about a member of Council breaching an obligation under the Code of Conduct for Members of Council. In the context of procurement, this might include conflict of interest or conduct respecting lobbyists. The investigation culminates in a report, in which the Integrity Commissioner will determine whether there was a contravention of the Code of Conduct, and whether a penalty or remedial action will be imposed.

The Lobbyist Registrar

The Lobbyist Registrar oversees and administers the Lobbying Bylaw, which restricts communication that occurs outside the allowable periods as stated within the Purchasing Bylaw. The Lobbyist Registrar works to promote and enhance the integrity of the City's decision making through publicly disclosing lobbying of public office holders and regulating lobbyists' conduct. In addition, the Lobbyist Registrar provides guidance and opinions on the Lobbying Bylaw by request, as well as education and outreach through training sessions.

The Ombudsman

The Ombudsman is an independent and impartial body who works to uphold fairness within City services. The Ombudsman investigates public complaints about City services in all City divisions and most City agencies, corporations and adjudicative bodies. The Ombudsman investigates after all other complaint channels have been exhausted. If an investigation is required, the Ombudsman will provide solutions and recommendations for improvement. The Ombudsman's decisions are final and not reviewable by any other body.

Internal City of Toronto Compliance and Oversight Mechanisms

In addition to the four Accountability Officers, there are internal measures within the Purchasing and Materials Management Division to ensure compliance and integrity within procurement.

The Chief Procurement Officer

The Chief Procurement Officer (CPO) leads the Purchasing and Materials Management Division of the City, including designated agencies. The CPO oversees the acquisition of goods and services for the City of Toronto. In addition, the CPO ensures compliance with federal, provincial and municipal laws and regulations, establishes processes, policies and procedures to support the activities of PMMD and has the ability to adopt supplemental procedures, if required.

The Controller

The Office of the Controller provides a broad range of internal financial services to the City and establishes internal control systems to support efficient management of City finances. The Purchasing Bylaw sets out a number of control functions within the procurement process where the Controller assumes an independent oversight role. Of note, the Controller undertakes an impartial review and makes decisions on post-award bid disputes that cannot be resolved by the Chief Procurement Officer and may adopt and publish procedures necessary to ensure an independent and timely review and resolution of post-award bid disputes. The Controller, in consultation with the City Solicitor, may also cancel a procurement if it is determined the integrity of the solicitation process has been compromised.

Fairness Monitors

Fairness Monitors are external, independent third-party advisors who monitor the procurement process to ensure it is conducted in accordance with the City's procurement policies and processes. External Fairness Monitors are utilized on procurements that require additional oversight due to their large scale and complex nature. The Fairness Monitor attends and observes meetings and interactions related to

a procurement and provides guidance when required. In addition, the Fairness Monitor reviews the solicitation documents and any addenda to ensure they are written in a fair and objective manner. The Fairness Monitor does not replace or duplicate internal staff roles, rather, they provide a supplementary form of due diligence. PMMD is currently reviewing the Fairness Monitor Policy to add additional clarity around when a Fairness Monitor should be used.

Compliance and Quality Assurance Unit

The Compliance and Quality Assurance Unit resides within PMMD. The unit reviews Divisional Purchase Orders for compliance with the *Purchasing Bylaw, Procurement Processes Policy, Social Procurement Policy*, as well as the *Divisional Purchase Order Procedure*. The unit identifies benchmarks and opportunities for divisions to achieve higher standards of service. When required, staff will provide orientation and training to reinforce compliance and risk management and mitigation.

Contract Management Center of Excellence

PMMD is developing a Contract Management Centre of Excellence (COE), which will provide centralized oversight, guidance and governance over supplier governance and contract management activities within the City of Toronto. The COE will also have training, change management and compliance mechanisms built into the program.

Coordinated Controls with the Finance & Treasury Service Area

There are multiple divisions within Finance & Treasury Services that work together to create and manage controls within procurement and contract management processes. Insurance and Risk Management, Internal Audit, the Office of the Controller, Accounting Services, and Financial Control and Process Improvement Division all serve integral oversight functions.

Conclusions on the Role of an Inspector General in Toronto

Based on PMMD's discussion with Montréal's Inspector General and additional review and mapping of governance and controls in Toronto's procurement process, the need for an Inspector General in Toronto is not supported. Diverse oversight mechanisms are in place to monitor the integrity of the procurement process proactively and in response to supplier and resident complaints. Based on the City of Montréal model, staff estimate that creating an office around an Inspector General would cost millions of dollars and would duplicate roles that are well-situated within existing divisions and offices.

Staff complete ongoing training, quality assurance work and regular policy and procedure review to address issues as they emerge to maintain the integrity of the procurement process and the principles of fairness and transparency. In addition, the extensive review of control processes is being undertaken through the Financial System Transformation Project.

CONTACT

Hillary Keirstead, Manager, Policy and Program Planning, Purchasing and Materials Management Division, 416-392-0643, hillary.keirstead@toronto.ca

SIGNATURE

Geneviève Sharkey
Chief Procurement Officer

ATTACHMENTS

Attachment 1: Proposed Amendments to Municipal Code Chapter 195, Purchasing