

Date: 2021-11-15

Subject: Procurement Processes at the City

Contact: Gina Rebancos, Director, Purchasing
Corporate Support Services

Report Number: Corporate Support Services-2021-1229

Recommendations:

1. That the report titled Procurement Processes at the City, to the Committee of Council meeting of December 1, 2021 be received

Overview:

- At the September 29, 2021 Council meeting, Council approved the following resolution:

That staff be requested to report on the procurement process specifically with regard to the selection of the successful bid, use of an evaluation system and the associated decision-making roles.
- This report provides information on the various procurement processes conducted at the City and the approval authorities for contract award decisions.

Background:

The City's current [Purchasing By-law](#) has been in effect since March 2018. The By-law was developed with a focus on compliance with the City's obligations under relevant trade agreements, addressing the Provincial Ombudsman's 2017 recommendations and modernizing the City's procurement processes.

The objectives of the Purchasing By-law are to ensure value for taxpayers, achieved through the City's procurement goals of encouraging competition, openness, transparency, fairness, objectivity, accountability, efficiency and effectiveness.

Procurement law provides that a contract be awarded to the qualified bidder whose bid is responsive to the terms of the procurement document. Most City procurements are conducted under the "*Contract A*" and "*Contract B*" paradigm. "*Contract A*" is formed when a compliant bidder responds to a bid call. "*Contract A*" includes a condition that the bidder, if selected, is required to enter into "*Contract B*", being the contract to perform the work. These procurements are subject to the following duties:

- Duty to disclose relevant and material information
- Duty to reject non-compliant bids
- Duty to conduct a fair process
- Duty to award the contract to the winning bidder
- Duty to award the contract as tendered

On February 22, 2021, a Council workshop ([February 2021](#)) was held providing an overview of procurement practices and processes at the City, including roles and responsibilities of staff and Council in the various types of procurements.

Current Situation:

In accordance with the Purchasing By-law and in response to Council requests, the following reports are provided to Council for approval and information:

For *approval*:

- Council approval of the annual operating and capital budgets.
- Begin Procurement Reports for procurements estimated at \$1,000,000 or greater and procurements less than \$1,000,000 that are deemed to be of significant risk, involve security concerns or significant community interest.
- Budget amendment reports for procurements where insufficient funding is available.

For *information*:

- Purchasing Activity Report provided on a quarterly basis summarizing the City's purchasing activity including a brief description of each item for the following:
 - New Contracts with a value of \$100,000 and over;
 - Contract Extensions and Renewals with a value of \$100,000 and over;
 - Exceptions;
 - Emergency Purchases; and
 - Disposal of assets.

- Purchasing Activity Report provided on a quarterly basis with a summary of contracts with a value of \$100,000 and greater with upcoming renewal options, prior to contract renewal execution.
- Active Consulting Service Contracts report provided on a quarterly basis summarizing active consulting contracts engaged by the City of all dollar values.

The Purchasing By-law outlines various procurement processes utilized for the purchase of goods, services and construction within specified financial thresholds. Below is a summary of these processes and associated approval authorities.

Direct Purchase (up to and including \$25,000)

A Direct Purchase is considered to be low value and low risk and therefore does not require a competitive process. Departmental staff are responsible to ensure value for money with competitive prices when conducting a direct purchase. These purchases are paid with a Purchasing Card (P-Card), a City-issued cheque or electronic payment, which do not require a purchase order. Use of a P-Card is encouraged as the preferred payment method as it reduces administrative work, increases the rebate to the City and allows for an automated payment process. With this payment method, appropriate controls are in place that include spending limits on cardholders, commodity controls, enhanced monitoring and reporting with disclosure of activity to Managers and Directors and quarterly transaction reporting to Department Heads. Purchases within this category are subject to the Purchasing By-law and related policies and procedures.

Competitive Invitational Procurement (greater than \$25,000 to less than \$100,000)

This process is delegated to departmental staff to conduct by direct invitation to vendors. Departments are responsible to prepare the procurement documents including the scope of work and forward the documents to a minimum of three (3) vendors to solicit bids. Vendors may be invited based on past experience, performance with the City, and from the City's Vendor List found on our electronic bidding platform bids&tenders. With the launch of the Supply Chain Diversity program anticipated for early 2022, Departments will be required to invite one diverse vendor certified by non-profit supplier certification organizations, and one never before invited vendor to invitational procurements.

Purchasing supports departments with the provision of document templates, reference materials, tools and training. In addition, Purchasing affirms the integrity of the process and client selection of the successful vendor and approves award of the contract.

The selection of a successful vendor through an invitational procurement can be based on the evaluation of technical and financial criteria (refer to Request for Proposal below) or solely based on price (refer to Request for Quotation below).

Competitive Public Procurement (\$100,000 and greater)

Public procurements are led and conducted by Purchasing staff, with the scope of work and evaluation criteria matrix being determined at the Department level. These procurements are publicly advertised and processed through our electronic bidding platform bids&tenders, which was launched in May 2017. This platform allows all vendors to view, download and submit bids electronically. Purchasing staff work with our departmental partners to develop the procurement schedule and documents that consist of the bid requirements, scope of work, pricing structure and evaluation process.

For the Competitive Invitational and Public Procurement processes, two procurement types are used:

Tender/Request for Quotation

A tender/request for quotation is a competitive process with pricing requested for prescribed goods, services and construction. A tender/request for quotation may include mandatory requirements that bidders must comply with in order for their bid to be compliant and considered for contract award. Some examples of these requirements include bid deposits and relevant experience. The selection of a vendor is solely based on the lowest price. This process is common for roads, building construction, and facility repair projects.

Request for Proposal (RFP)

A Request for Proposal ("RFP") is a process that allows technical and financial criteria to be evaluated in a vendor's proposal ("Proposal"). Typically, an RFP process is used when a need is identified and solutions are proposed by vendors. This process is common in procuring information technology solutions and design-build construction projects. The procurement documents such as technical criteria, weightage factors, evaluation methods, scope of work, are developed in collaboration with Purchasing and the department.

Examples of technical criteria include company experience, staff qualifications and experience, proposed solution, methodology, schedule and references. Each criterion is assigned a weighting that reflects the level of importance of the criterion in the overall evaluation. Attached is a sample Evaluation Scoring Sheet outlining the technical criteria and associated weighting.

An evaluation team is established consisting of City staff and subject matter experts, and may also include external consultants. Each evaluator is required to sign a Conflict of Interest and Confidentiality Statement confirming no conflict of interest exists in their participation and all information obtained during the evaluation process shall remain confidential. Proposals are evaluated on the basis of the information provided by the

Bidder at the time of submission of its Proposal in reference to the evaluation criteria, as specified in the Proposal Document.

Mandatory Evaluation Requirements:

Purchasing reviews Proposals for compliance with mandatory evaluation requirements. Proposals must comply with mandatory requirements in order to proceed to the next step of the evaluation process. Proposals that do not comply are disqualified from further consideration. Examples of mandatory requirements include professional certifications and years of experience. The decision to disqualify a Proposal resides with the Purchasing Agent or delegate and may include consultation with Legal Services and the department.

Technical Evaluation:

Each evaluation team member evaluates the vendors' proposals independently using the Evaluation Scoring Sheet and Evaluation Points Table, assigning a score for each criterion and providing supporting comments. The evaluation team will meet to form a consensus score for each criterion for each Proposal to determine a total technical score for each vendor. This meeting is chaired by Purchasing staff with the responsibility of ensuring the evaluation team has evaluated all Proposals fairly, consistently and objectively in accordance with the process established in the Proposal Document.

A minimum score for the technical content of the Proposal is established by the department in collaboration with Purchasing at the onset of the development of the procurement documents. Proposals must achieve the minimum score to advance to the next step of the evaluation. Typically, the minimum score ranges from 60% to 70%.

Depending on the nature of the requirement, vendors may be required to conduct a presentation or demonstration of their Proposal and/or product. This is an optional step in the process and is decided by the evaluation team and Purchasing.

Financial Evaluation:

Proposals that achieve the minimum score in the technical evaluation are evaluated on the basis of price. The sealed price schedule only of those vendors will be unsealed and evaluated. Pricing from those vendors whose Proposals did not achieve the minimum score will remain sealed.

Price may be evaluated in two methods: 1) lowest price per point and 2) rated price and decided by the evaluation team and Purchasing during the development of the procurement documents.

- 1) The lowest price per point method is used when equal weightage is given to technical criteria and bid price. It is calculated with each vendor's total price being divided by the vendor's total technical score. The Proposal that achieves the lowest price per point is recommended for award of the contract.

Example:

	Total Technical Score	Total Price	Price Per Point
Vendor A	700	\$100,000	\$142.86
Vendor B	720	\$125,000	\$173.61
Vendor C	750	\$140,000	\$186.67

- 2) The rated price method is used when both technical criteria and price are incorporated into the evaluation, but one is given more weight. For example, for a project that requires specialized technical knowledge, the technical criteria may account for 70% of the bid evaluation, and the bid price, 30%. The score is calculated by dividing the lowest total price by each vendor's total price multiplied by 10 and multiplied by the associated weight factor. The technical and financial scores are totaled to determine a final total score for each vendor. The Proposal that achieves the highest total score is recommended for award of the contract.

Example:

	Total Price	Weight Factor	Assigned Points	Price Score
Vendor A	\$100,000	30	10	300
Vendor B	\$135,000	30	7.4	222
Vendor C	\$200,000	30	5	150

Departments may choose to utilize a fairness monitoring process for specific procurements, and may engage a fairness monitor as an independent third party to observe all or part of a Procurement Process. This helps provide related feedback on fairness issues to the Purchasing Agent and the Department Head, or to Council for Procurements in excess of \$1,000,000 to provide an unbiased opinion on the fairness and transparency of the process. The use of fairness monitors are reserved for high-value, high-profile, and complex projects. Currently, a fairness monitor is engaged for the design-build of the new transit facility.

During the open bidding period of a procurement process, vendors may ask questions and seek clarification from the Purchasing Representative identified in the procurement document. The Purchasing Representative is the sole contact for all communication with vendors during the procurement process. Depending on the nature of the questions, department staff are consulted for responses. Responses to questions that require a change to the bid requirements are provided to all vendors in writing as addenda.

Non-Competitive Limited Tendering (greater than \$25,000)

The Purchasing By-law permits non-competitive procurements in specific circumstances as set out in Schedule C of the Purchasing By-law. This process is called Limited Tendering or more commonly known as single and sole source. Departments prepare a business case and select the vendor to support the use of this process for Purchasing's review and approval

Emergency Purchase (greater than \$25,000)

Emergency is defined in the By-law as an unforeseeable, serious emergency situation where the immediate purchase of goods, services or construction is essential in order to maintain a required service or to prevent danger to life, health or property within the City of Brampton. It is reserved for only those occasions when due to unforeseen emergencies, the timeline for a competitive process would not be feasible. Although an Emergency exists, not all purchases during a declared emergency qualify for an Emergency Purchase. Examples of emergency purchases are the procurement of PPE in an urgent response to COVID-19 or the repair of a roof leak at a recreation centre.

Approval Authorities

Council approves the initiation of procurements, including non-competitive procurements estimated at \$1,000,000 and greater through Begin Procurement Reports. These reports provide an overview of the goods, services or construction being procured, confirmation of available funding and the procurement process to be conducted.

Schedule B of the Purchasing By-law sets out the highest level of approval authority for the selection of a vendor and award of a contract. These authorities include the Purchasing Agent, Department Head and CAO.

Department Heads may delegate their authority to staff as set out in the [Delegation of Department Head Purchasing Authority Administrative Directive](#), as shown below.

Contract Award Authority

Transaction Value	Minimum Approval Required
Up to \$25,000	Any Permanent Full-Time Employee
Up to \$100,000	Supervisor or Equivalent
Up to \$500,000	Manager, Senior Manager
Up to \$1,000,000	Director
Over \$1,000,000	Department Head and CAO

Contract Award Authority – Limited Tendering and Irregular Result

Transaction Value	Minimum Approval Required
\$25,000 to \$100,000	Manager, Senior Manager
Up to \$500,000	Director
Up to \$1,000,000	Department Head
Over \$1,000,000	Department Head and CAO

Contract Award Authority – Emergency Purchase

Transaction Value	Minimum Approval Required
\$25,000 and Greater	Department Head or CAO or CBO

Authority – Asset Disposal

Transaction Value	Minimum Approval Required
Any Value	Manager, Senior Manager

Authority – Non-Monetary Contract Changes

Transaction Value	Minimum Approval Required
Not Applicable	Supervisor or Equivalent

Purchasing Agent authority is also delegated in accordance with the below approval authorities:

Contract Award Authority – New Contract, Cumulative Value of Contract Extension and Tied Bids

Transaction Value	Minimum Approval Required
Up to \$100,000	Purchasing Associate, Buyer, Senior Buyer
Up to \$500,000	Purchasing Supervisor
Up to \$1,000,000	Deputy Purchasing Agent
Over \$1,000,000	Purchasing Agent

Contract Award Authority – Limited Tendering and Irregular Result

Transaction Value	Minimum Approval Required
\$25,000 to \$100,000	Purchasing Supervisor
Up to \$500,000	Deputy Purchasing Agent
Up to and over \$1,000,000	Purchasing Agent

Authority – Asset Disposal

Transaction Value	Minimum Approval Required
Any Value	Deputy Purchasing Agent

Authority – Non-Monetary Contract Amendments

Transaction Value	Minimum Approval Required
Not Applicable	Purchasing Associate, Buyer, Senior Buyer
Blanket Contracts – time only extensions (not including renewals)	Purchasing Supervisor

For procurements \$1,000,000 and greater, Department Head, Purchasing Agent and CAO approvals are required with no delegation permitted.

These approvals are required for the selection of a vendor and award of a contract, as part of a procurement process noted above.

Corporate Implications:

As this is an information report, no corporate implications have been identified.

Strategic Plan:

This report achieves the Strategic Plan goals in Good Government by achieving effective management of the City's finances through the City's procurement goals of encouraging competition, openness and transparency, fairness, objectivity, accountability, efficiency and effectiveness.

Terms of Council Priority:

This report has been prepared in full consideration of the Term of Council Priority of "Brampton is a Well-Run City", demonstrating value for money of City programs and services through open, fair and transparent procurement processes.

Conclusion:

This report outlines the various procurement processes followed at the City to procure goods, services and construction and the associated approval authorities in accordance with the City's Purchasing By-law and supporting policies and procedures. These processes align with current Canadian legal requirements, trade treaty obligations and municipal procurement best practices.

The current comprehensive reporting to Council supports its oversight and fiduciary responsibilities related to the City of Brampton's procurement activities and addresses the need for transparency and disclosure to Council and the public.

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Attachments:

Sample Evaluation Scoring Sheet

Evaluation Points Table

Schedule C

Schedule B

[Financial Spending Approval Authority Administrative Directive](#)