

City of Brampton Limited Tendering Audit – Audit Report
Private & Confidential
Appendix 1

Audit Name	City of Brampton, Limited Tendering Audit		
Sponsor(s)	Rick Conard, Commissioner, Corporate Support Services Rino Minaudo, Acting Director, Purchasing Diane Oliveira, Manager, Purchasing		
Business Unit	Purchasing, Corporate Support Services	Date Issued:	August 23, 2022

1.0 Executive Summary

Audit Report Rating: The report highlights control gaps around authority limits, reporting to Council, and the Complaint process. The overall processes and controls over Limited Tendering (LT) were rated as **“Improvement Required.”** This takes into consideration the key strengths we noted, including compliance with the Purchasing By-law, documentation management, and tracking of controls. See **Appendix 2** for the criteria for Audit Report Rating.

The inherent risk was evaluated as a medium given the moderate dollar value of limited tendering contracts during our review period.

During our review and limited sample testing, we observed the following strengths:

- Compliance with Purchasing By-law 19-2018, Schedule C (Justification process), and Schedule B (Award authority) for sample Limited Tendering/ Non-Competitive procurements;
- Adequate identification, tracking, and reporting of LT procurements in the PeopleSoft financial system;
- Reporting of LT procurements to Council in accordance with its existing defined process through the Purchasing By-law; and,
- Appropriate approval and documentation processes were followed for LT procurements, including approved requisitions, verification that funds were available and insurance requirements were met before releasing the Purchase Order (PO).

Internal Audit discussed the following improvement opportunities with the Management:

- Purchasing’s current procedure for approving multi-year contracts (competitive and non-competitive) does not consider the total procurement value over the life of the contract. All multi-year contracts were approved considering the value of the contract for the initial term, not the total amount associated with the contract which includes known contract renewals. This may possibly allow for the circumvention of authority limits.

- Similarly when approving extensions, the approvers consider the cumulative amount of the extension but not the initially approved amount. This may also possibly allow the circumvention of authority limits.
- Further, reporting on the LT extensions and renewals does not specifically identify the initial procurement method. This results in limited visibility to Council. We suggest it would be beneficial to identify the original form of procurement at the time of reporting LT extensions and renewals and that they are separately identified, categorized and summarized to Council.
- Current Purchasing By-law under Section 11 does not require LTs under \$100k to be reported to Council. LT procurement as a percentage of total procurement is also not required to be reported to the Council. The absence of such reporting, limits Council's visibility of LT procurements.

For instance, we reviewed purchasing data and City staff's purchasing reports to Council from January 2020 to April 2022 and found that Council does not have the full visibility of LT procurements due to the following:

- New LT procurement under \$100k totalling \$3.66M were not required to be reported.
- Total LT extensions and renewals were \$31.13M for this period, of which \$4.54M consisting of LT extensions and renewals less than \$100k, were not required to be reported. The other \$26.59M were reported as LT but their original procurement forms were not identified in the reports. Not providing the original form of procurement does not provide a full picture of the amount and form of the procurement type, particularly if the original form is already a LT procurement.
- Currently, LT procurements were approved either through manual signature or through email (for which email approval is acceptable) by circulating a Limited Tendering form. This process may be prone to errors.
- Currently there is no defined procedure for bidders to raise any potential disagreements or concerns over the way the City conducts its procurements despite the Purchasing By-law requirement under Section 2.6 that "objective and timely consideration be given to any Bid complaint submitted to the City in accordance with Supporting Policies and Procedures."

These issues and associated management action plans are detailed in the body of this report.

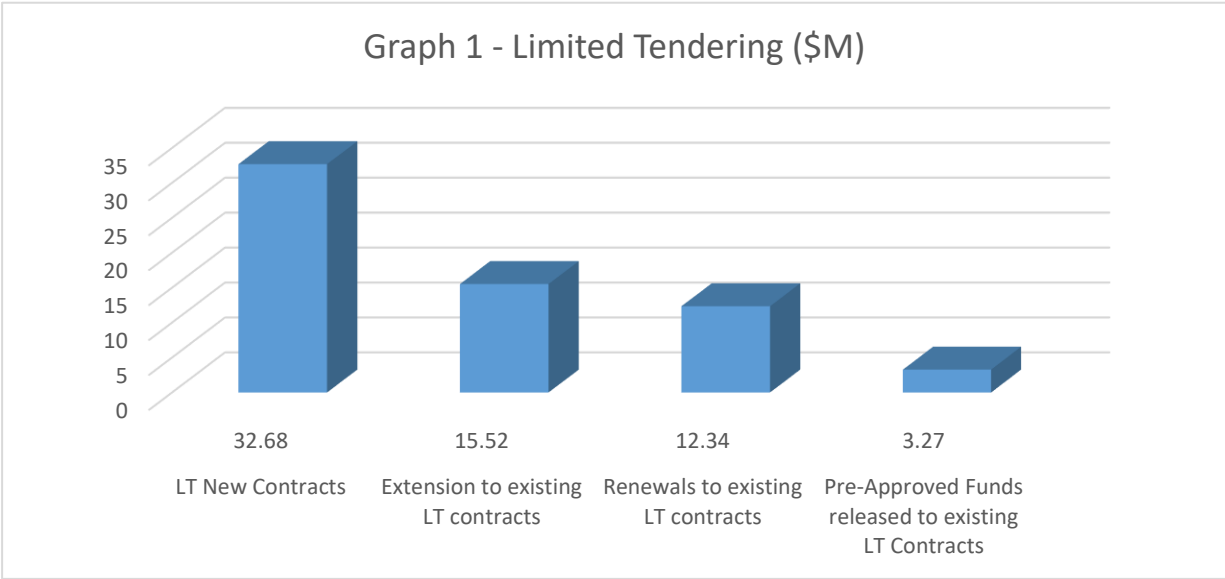
2.0 Background, Objectives, and Scope

Background

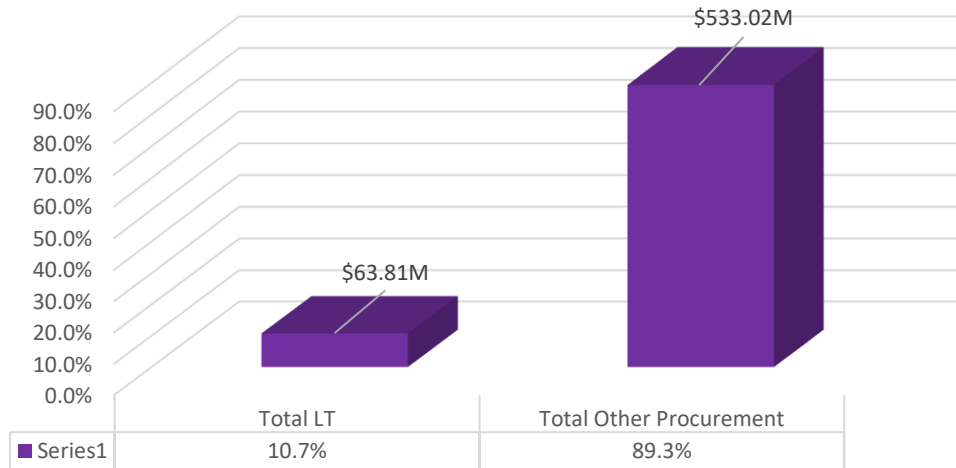
The key objective of the City of Brampton (COB) purchasing function is to promote procurement activities consistent with the City's strategic, financial, social, and environmental objectives. Procurements must be carried out in a manner so as to achieve best value for money while also maintaining trust and confidence in the stewardship of public funds.

The City strives to competitively procure all goods and services. However, as specified in Schedule C of the Purchasing By-law 19-2018, limited tendering (i.e. single/ sole source) procurement is permitted in certain circumstances. The schedule outlines the circumstances under which non-competitive procurement and the specific vendor can be justified in good faith.

From January 2020 to April 2022, the overall procurement transaction value was \$596.83M, consisting of \$417.65M in new procurement, and \$179.18M in renewal and extension of existing contracts. LT procurement accounts for \$63.81M, or 10.7%% of total procurement for this period of time. The following Graph 1 depicts the breakdown of the LT procurement while Graph 2 depicts LT procurement vs Total Other Procurement.



Graph 2 - LT and Total Other Procurement



Effective controls over the LT process is critical to ensure that the public's funds are spent effectively, economically, and ethically (value for money).

Objectives and Scope

The objective of the audit is to evaluate the processes and controls in place around LT procurements, identify strengths and weaknesses, and provide recommendations for improvement.

The scope of this audit includes all identifiable sole and single source (Limited Tendering) procurements entered into between Jan 2020 to April 2022. The scope of the audit will focus on the following:

- Efficiency and effectiveness of existing internal controls framework around limited tendering procurements;
- Sample testing of limited tendering procurement to ensure compliance with By-law including justification and approvals;
- Controls around effective identification, tracking, and coding of limited tendering procurements; and,
- Controls around periodic reporting and monitoring.

The following will not be included in the scope of this audit:

- Emergency Purchases as these transactions were audited in 2021;
- P-Card purchases as these transactions were audited in 2020; and,
- Invitational/Public Procurements (Competitive Procurements).

3.0 Detailed Audit Findings and Proposed Management Actions

Ref #	Audit Findings	Finding Rating	Audit Recommendations	Management Response and Due Date	Responsible Party
1	<p><u>Limited Tendering Award Authority Limits</u></p> <p>Purchasing By-law 19-2018, Schedule B establishes approval threshold limits for LT contracts depending upon the dollar amounts.</p> <p>Our review of the existing process against best practices and benchmarking with other comparable municipalities indicated certain anomalies and areas for improvement:</p> <p>a) Multi-year contracts</p> <p>According to existing practice for both competitive and non-competitive procurements, approvals as per the authority matrix were obtained for the duration of the initial term of the contract, even for multi-year contracts with planned/known renewals.</p> <p>A limited review indicated that higher authorization approvals may be required if all known renewals were considered when the contract was first approved.</p> <p>Our comparison of the other municipalities (such as Toronto, Hamilton, Vaughan, and Aurora) highlighted that multi-year contracts are approved for cumulative value for the entire contract duration including known renewals.</p>	P1	<ol style="list-style-type: none"> 1) Initial procurement approvals should include the estimated amount for contract renewals in addition to the initial contract amount. 2) A process should be put in place to ensure approvals are obtained for the cumulative value, including original contract value and any future extensions or renewals. 3) System workflow should be defined for all LT procurement approvals. 	<ol style="list-style-type: none"> 1) Purchasing is currently working towards digitizing its current limited tendering approval process, through AgilePoint (with a defined system workflow), for which approvals will be obtained considering the initial contract amount and optional contract renewal amounts to ensure higher level of approval authority is obtained. <p>Expected Completion: Q1, 2023</p> <ol style="list-style-type: none"> 2) Refer to response 1) 3) Refer to response 1) 	<ol style="list-style-type: none"> 1) Manager, Purchasing & Manager, Procurement Performance 2) Refer to response 1) 3) Refer to response 1)

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	<p>b) Contract extension/renewal approvals</p> <p>As per the current process, contract extension and renewal approvals are obtained without considering the contract cumulative value (that is, the original contract amount + the cumulative value of all extension/renewal amounts). This may result in circumvention of the authority limits on the total contract amount.</p> <p>We selected 11 samples and identified four cases where, due to the existing process, the total contract value (including the original amount and extensions/renewals) was not approved as per the authority limits. The summary is as follows:</p> <ul style="list-style-type: none"> • In two instances overall contract value which includes contract extensions and/or renewals exceed \$1M and approval should have been obtained from the CAO whereas, extensions were only approved by the Director. • Similarly, in one instance, Director approval was obtained instead of Commissioner for a cumulative value exceeding \$500K, and • In one instance, the manager approved the cumulative value of PO exceeding \$100k instead of the Director. <p>The above approvals, complied with existing processes where the approval was only required to be obtained considering the</p>				

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	<p>cumulative value of contract extension and renewal portions only, and not the total contract values.</p> <p>Management confirmed that this is the prevailing practice for both competitive and non-competitive procurements.</p> <p>c) Manual approval for LT Contract</p> <p>The current process requires that LT procurements are approved either through manual signature or via email. This process may be prone to errors.</p> <p><u>Potential Exposure</u> Inadequate oversight and approval process may result in possible circumvention of authority limits.</p>				
2	<p><u>Council Report on Limited Tendering Transactions</u></p> <p>As per the existing process, Council receives a quarterly report from Purchasing summarizing the City's purchasing activity in the previous quarter.</p> <p>Our evaluation of the current reporting process against publicly available information of best practices and benchmarking with other municipalities indicated certain anomalies and areas for improvement:</p> <p>a) LT reporting threshold</p>	P2	<p>4) As a best practice, the City should consider lowering the threshold for reporting LT procurements to Council.</p> <p>5) Given the significant financial values, LT contract extensions and renewals should be clearly identified, categorized, summarized and included in the quarterly LT reports to City Council.</p> <p>6) Purchasing should define Key Performance</p>	<p>4) A formal review of the City's Purchasing By-law is anticipated to take place in Q1/2 2023, for which Purchasing will take the opportunity to review reporting thresholds and compare against neighbouring municipalities to determine alignment to potentially implement recommended changes.</p>	<p>4) Manager, Purchasing & Manager, Procurement Performance</p> <p>5) Refer to response 4)</p> <p>6) Refer to response 4)</p>

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	<p>According to the existing procedure, City Council receives quarterly reports only for LT contracts of \$100k and over.</p> <p>Due to \$100k threshold, \$3.66M (i.e. 11%) of the \$32.67M in new LT procurement were not reported to Council.</p> <p>However, most LT procurements were reported by other equivalent municipalities (such as Toronto, Vaughan, Hamilton, Milton, and Aurora), regardless of monetary value.</p> <p>b) LT Contract extensions/renewals</p> <p>While ALL contract extensions and renewals of \$100k and over are reported to Council, the report does not specifically identify the initial procurement method i.e. Limited Tendering method for extensions and renewals which results in limited visibility to the Council.</p> <p>In addition, the total LT procurement for the review period (January 2020 to April 2022) was approximately \$63.81 million. Of that, \$31.13 million (49%) were specifically extensions or renewals of existing LT contracts already awarded. \$26.59M of the \$31.13M was reported to Council but management did not specify the original form of procurement for these extensions and renewals. The remaining \$4.54M of the \$31.13M was under the \$100K reporting threshold and therefore was not required to</p>		<p>Indicators (KPIs) including Non-Competitive to Total Procurement and report to City Council.</p>	<p>5) Purchasing will be updating the quarterly activity report to Council to provide clarity of contract extensions and renewals for LT contracts.</p> <p>Expected Completion: Q1, 2023</p> <p>6) Through the office of the CAO (organizational performance team), Purchasing is currently working towards reporting KPIs (through a dashboard) relative to competitive and non-competitive (limited tendering) spend across all City departments for Senior Management (inclusive of the CAO and Council).</p> <p>Expected Completion: Q2, 2023</p>	

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	<p>be reported thereby resulting in limited visibility to Council. We think it is beneficial to report the \$31.13M as limited tenders and at the same time identify that they were extensions and renewals.</p> <p>c) Non-Competitive to Total Procurement</p> <p>Currently, the total value of competitive and non-competitive sourcing is not reported to City Council.</p> <p>Following best practices from other municipalities/regions, an annual report detailing non-competitive sourcing as a percentage of total sourcing is provided. In addition, some municipalities have shown a long-standing trend in LT procurement for greater visibility.</p> <p><u>Potential Exposure</u></p> <p>Council may not have adequate oversight over LT contracts executed, renewed and extended by the City.</p> <p>Inadequate reporting on key performance metrics (such as non-competitive procurement as % to total procurement) may result in sub-optimal assessment of the purchasing process against divisional goals and objectives.</p>				

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3	<p><u>Complaint and Dispute Resolution</u></p> <p>There is currently no defined procedure for bidders to raise any potential disagreements or concerns over the way the City conducts its procurements despite the following Purchasing By-law requirement and definition.</p> <p>According to Section 2.6 of the Purchasing By-law 19-2018, Complaints and Disputes Resolution, states that "Objective and timely consideration will be given to any Bid complaint submitted to the City in accordance with Supporting Policies and Procedures."</p> <p>Also, Schedule A of the Purchasing By-law 19-2018 defines a Procurement Complaints and Disputes Resolution Committee to mean a "Committee of City staff as described in the Procurement Complaints and Disputes Resolution Policy and Procedures".</p> <p>In addition and according to best practices, comparable municipalities (such as Mississauga, Region of Peel, Toronto, Vaughan, Hamilton, Milton, and Aurora) have procedures, policies, or By-laws that allow bidders to file official complaints or protests if they believe the City's procurement operations conduct has been unfair or inappropriate.</p> <p><u>Potential Exposure</u></p>	P2	7) Formal complaint procedures should be implemented as required by the Purchasing By-law and communicated to potential bidders for all future procurements.	<p>7) Purchasing is actively working towards a formalized complaint and dispute resolution process</p> <p>Expected Completion: Q2, 2023</p>	7) Manager, Purchasing

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	In the absence of a formal bid dispute process, the City may not be aware of any possible vendor concerns including favouritism or collusion which could exist and jeopardize a fair and transparent public procurement process.				

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