

Committee of the Whole (2) Report

DATE: Tuesday, June 18, 2024

WARD(S): ALL

TITLE: AMENDMENTS TO THE CORPORATE PROCUREMENT POLICY

FROM:

Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor

ACTION: DECISION

Purpose

To recommend some amendments to the Corporate Procurement Policy and provide an update on the implementation of health and safety program requirements for certain projects.

Report Highlights

- The City implemented a new Corporate Procurement Policy on July 1, 2023, that governs how procurements are conducted at the City. The regime has been effective in managing the City's procurements.
- After almost a year of implementation of the new Corporate Procurement Policy, staff identified some areas for clarification and amendments to improve our ability to provide best value procurements for the City in a streamlined, efficient, open, and transparent manner.

Recommendations

1. THAT Council approve the proposed amendments to the Corporate Procurement Policy (15.C.03), substantially as set out in Attachment 1 of this report (with changes indicated as underlined), to be effective July 1, 2024.

Background

Section 270(1) of the *Municipal Act, 2001*, as amended, requires that a municipality adopt a policy for its procurement of construction, goods, and services. In 2023, Council approved a new Corporate Procurement Policy to improve the City's overall procurement strategy and efficiently meet the City's increasing and evolving procurement needs. This Policy took effect July 1, 2023. The regime has been effective in managing the City's procurement needs.

Now that the Policy has been in effect for a year, staff have some recommended refinements to optimize our operational efficiency and overall effectiveness.

Previous Reports/Authority

[December 17, 2019, Committee of the Whole Report No. 41, Item 9, Infrastructure Health & Safety Association's Certificate of Recognition Program for City of Vaughan Construction Contractors](#)

[May 16, 2023, Committee of the Whole Report No. 23, Item No. 14, Corporate Procurement Policy Update](#)

Analysis and Options

Proposed Amendments to the City's Corporate Procurement Policy

Stakeholder engagements with internal City Departments, as well as review with Internal Audit were conducted. Some recommendations to the Policy are proposed to minimize operational impacts and enhance procurement governance. Details of the recommended amendments are included in Attachment 1 and highlighted below:

1. Additional Exemption to Policy

On June 20, 2023, Council approved amendments to the Administrative Monetary Penalties System (AMPS) such that the City Clerk is authorized to appoint Hearing Officers and to manage the hearings process for AMPS. A proposed AMPS Hearing Officers Appointment Policy is before Committee of the Whole for approval that would establish a separate process for their appointments. As such, it is recommended that a corresponding amendment be made to the Corporate Procurement Policy to clarify that Hearing Officers appointed by the City Clerk's office under the Administrative Monetary Penalties System are exempt from this policy.

2. Authority to Terminate

Staff are recommending that the City Manager be authorized to terminate supplier contracts in the event of significant performance issues or where there is no remaining budget allocation for the procurement. The City Manager would exercise this authority in consultation with the City Solicitor.

3. Temporary Contract Extensions

In the event that a contract is set to expire, and a new procurement is in progress, but not yet completed, staff are recommending that the Director of Procurement Services have the authority to temporarily extend contracts for a period of up to twelve (12) months to permit continued business operations until the procurement is complete.

4. Risk Mitigation

Staff are recommending that the mandatory legal review of all procurements where the contract term is in excess of five (5) years be removed, since the risks meant to be addressed are dealt with in other provisions of the Policy requiring legal review.

In addition, staff are recommending the inclusion of certain documentary requirements as part of the single and sole source procurements, similar to the requirements for competitive procurements, to appropriately manage risk.

5. Clarifications

In the course of implementing the new policy over the last months, it has become evident that certain definitions and provisions of the Policy also require clarification. To that end, Staff are recommending certain minor administrative amendments captured as tracked changes in Attachment 1.

Health and Safety Program for City Consultants

Aside from the requirements under the Corporate Procurement Policy, in 2019, Council endorsed requiring that City-retained Construction Contractors, Construction Consultants and External Project Managers be certified by the Infrastructure Health and Safety Association (COR), or equivalent. As such, the City currently requires COR certification, or equivalent, for Construction Contractors for projects valued at more than \$500,000.00. The City also currently requires COR certification or equivalent for the City's Construction Consultants retained for infrastructure development, design and contract administration services.

However, in discussions with Infrastructure Development, staff are of the view that the latter requirement is not necessary for traditional design consultant assignments and may have the inadvertent consequences of creating a disincentive for some consultants to bid on City projects.

Consultants obtained by the City conventionally do not have responsibility over the safety of our projects, nor are they acting as authorities on sites where typical construction activities are occurring. Generally, the Contractor acts as the Constructor on City projects, and all personnel are required to comply with any safety practices and training the Contractor outlines in order to enter the site they are obligated to maintain.

Therefore, staff have determined that the removal of the COR certification requirement for Consultants the City procures for traditional construction procurements. COR requirements will remain for Consultants when progressive procurement models are used, such as Design-Build, to maintain the integrity of the consortium. This is in alignment with common industry practices.

Financial Impact

None

Operational Impact

With the new Policy updates, procedures and other administrative policies will also be updated as required, and new ones may be developed to strengthen procurement governance and streamline processes.

Training will be delivered at both the corporate level and a customized departmental level according to roles and responsibilities.

Conclusion

The Corporate Procurement Policy has been reviewed for its effectiveness and some revisions are proposed to strengthen procurement governance within the City. It is recommended that the proposed policy be amended and take effect on July 1, 2024.

For more information, please contact:

Pooja Nagra, Director of Procurement Services ext. 8306

Attachment

1. 15.C.03 Corporate Procurement Policy with tracked changes.

Prepared by

Pooja Nagra, Director of Procurement Services ext. 8306

Louise Vrebosch, Deputy City Solicitor, Litigation and Municipal Law ext. 8969

Anita Pathmanathan, Contract Administration, Policy & Program Manager ext. 8388