



SUBJECT: Tender award contracts during extended gap in scheduled Council meetings

TO: Committee of the Whole

FROM: Capital Works

Report Number: CW-60-17

Wards Affected: All

File Numbers: 465.01

Date to Committee: June 26, 2017

Date to Council: July 10, 2017

Recommendation:

Approve an exception to Procurement By-law 19-2014 in order to award tendered contracts by delegated authority during an extended gap in scheduled Council meetings as detailed in report capital works report CW-60-17.

Purpose:

- An Engaging City
- Good Governance

Background and Discussion:

Procurement By-Law 19-2014 came into effect on April 9, 2014 and defines procurement policy and procedures for the Corporation.

Section 24.4 of the Procurement By-law allows staff to award Tenders and RFPs up to a value of \$5,000,000 by way of a delegated authority report contingent upon:

- a) the recommended Bidder is the lowest Compliant Bidder
- b) the project value is within budget
- c) a competitive bid process was utilized, and
- d) required executive staff approvals are supplied

Section 24.4.2 of the Procurement By-law requires a report to Council to be written to seek process approval if one or more of the criteria of 24.4 are not met.

In order to meet the last Council session of July 10th, all tenders would have to have been issued by May 2nd. This would have required all designs to be finalized and regulatory permits obtained by this date. External funding programs that arise outside of the capital budget such as the Infrastructure Canada Clean Water and Wastewater Fund (CWWF) as well as projects requiring land purchase or regulatory permitting often do not allow sufficient time to complete this early in the year.

Strategy/process

The Delegated Authority reporting ability allows staff to award the contract and removes the need for Council approval before Contractor startup as outlined in section 24.4 of the Procurement By-law. By authorizing staff to utilize this reporting where the project value is greater than \$5,000,000 or is not within 110% of the approved budget during an extended gap in the Council schedule, staff would be able to deliver the project within the construction season identified in the capital budget.

Options considered

Staff reviewed the option of tendering projects prior to receiving permits from regulatory agencies in order to meet the Council reporting timelines and found that the risk was too high as:

- There is a high potential for scope change and cost increase after the contract is issued to meet requests of the regulatory agency;
- Completion dates agreed to in the Contract would no longer be enforceable by the City;
- Project delivery costs would increase with the availability of work forces and post contract change orders.

Financial Matters:

This exception to Procurement By-Law 19-2014 will only come into effect for tenders during extended gaps if any one of the following occurs:

- The project value is greater than \$5,000,000 and within approved budget;
- The project value is less than \$5,000,000 and does not exceed 110% of the approved budget value as outlined in the approved 2017 Capital Budget.

Total Financial Impact

With the extended gap in Council, projects that are over budget or greater than \$5,000,000 would not be able to be awarded until Council returns on September 11. This will result in an insufficient construction period of 8 weeks to deliver the project. For projects where there are external funding partnerships, the funding will be lost as the project completion date of March 2018 will not be met.

Source of Funding

Any additional funding required is to be provided from monies made available from capital reserve funds. City staff will work with the Director of Finance to ensure budget guidelines are maintained and proper funding sources are utilized.

Other Resource Impacts

Not Applicable.

Public Engagement Matters:

For all capital construction projects, a project web site is created and a public information meeting will be held to provide information about the project and its associated schedule. As construction progresses, project updates are delivered to the affected residents on a regular basis and made available on the City's website.

Conclusion:

It is recommended that staff be authorized to award tenders during an extended gap between scheduled council meetings, where the gap is greater than 25 days, excluding weekends and statutory holidays, from the last scheduled Council meeting and the next scheduled Council meeting when the following conditions are being met:

- a) A competitive process has been utilized;
- b) Recommended bid is the lowest compliant bidder meeting the specifications in a tender competition;
- c) Budget funding exists for projects greater than \$5,000,000 or the project value does not exceed 110% of the approved budget for project less than \$5,000,000;
- d) Written approvals of the City Manager or his designate and the Director of Finance or their designate completed through approval of a delegated authority report.

Council will receive information on the outcome of the delegated authority award through regular updates provided by the City Manager's Office.

Respectfully submitted,

Scott Hamilton

Manager of Design and Construction

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Report Approval:

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.