



SUBJECT: Exceptions to procurement by-law for tender awards

TO: Committee of the Whole

FROM: Capital Works

Report Number: CW-14-18

Wards Affected: All

File Numbers: 465.01

Date to Committee: April 3, 2018

Date to Council: April 23, 2018

Recommendation:

Extend the exception to Procurement By-law 19-2014 previously approved by council (Report CW-60-17) to award tendered contracts by delegated authority during an extended gap in scheduled Council meetings; and

Approve an exception to Procurement By-law 19-2014 for all joint capital construction projects where the city's cost component of the contract is less than \$5,000,000 regardless of the total project cost in order to award contracts by a delegated authority report.

Purpose:

- An Engaging City
 - Good Governance
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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:

- the recommended Bidder is the lowest Compliant Bidder
- the project value is within budget

- a competitive bid process was utilized, and
- 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.

The Delegated Authority Reporting ability has allowed staff to streamline the tender award process and take advantage of early year pricing by removing the need for Council approval reports before Contractor startup after bid closing dates. The earlier construction date allows for more flexibility in construction schedules to align with schools, temporary transit detours etc, while increasing the potential for the project to be completed in one construction season.

Strategy/process

Procurement By-law Exceptions:

1. Extended Gap in Scheduled Council meetings

Report CW-60-17 approved 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.

After the 2017 Capital Budget was approved this exception came into effect for tenders during extended gaps (25 days or greater, excluding weekends and statutory holidays, from the last scheduled Council meeting to the next) when the following conditions are 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.

This exception ability has allowed staff to award contracts in a timelier manner during extended Council gaps and increased the ability to deliver the project within the construction season identified in the capital budget.

It is recommended that this exception be extended until such time as the Procurement By-law 19-2014 is next updated (estimated later this year).

2. Joint Capital Construction projects where the City's cost component of the contract is less than \$5,000,000 regardless of the total project cost

During the Capital Budget Forecast preparation, the infrastructure renewal program is coordinated with the Region of Halton in order to complete their works at the same time and lessen the impact and cost to the Burlington taxpayer. The Regional component cost of the project is not included in the City's budget documents as it is unknown at the time and the Region has their own approval mechanism in place for the award of joint tenders.

In 2018, apart from the annual resurfacing program, 85% of roadway capital projects have some form of Region of Halton components (water or waste water repair/replacement).

Although the City's and Region's cost components are clearly identifiable in the contract tender, the procurement By-law does not distinguish between the two parties. As such, a Council report is triggered when the City's portion of the cost is below the \$5,000,000 threshold and the total tender of Region and City works is greater than \$5,000,000.

Staff is recommending that Council provide the requested authority to award joint construction tenders that have a City cost component less than \$5,000,000 by delegated authority report. Any monetary references in the Procurement By-law should be defined to be the City of Burlington portion of expenditures falling within joint projects. Award will continue to be to the lowest compliant Bidder and be subject to the normal contingencies of a delegated authority report with the exception of the dollar value cap. As such, the previously approved budget limit will not be exceeded.

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

Financial Matters:

Not Applicable.

Total Financial Impact

Projects that are unable to be awarded by way of Delegated Authority delay the start date of construction.

Source of Funding

Funding has been approved in the City's and Region's Capital Budget for these projects.

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 the previously approved exception to the Procurement By-law to allow for awards of tenders during extended Council gaps be extended.

In addition, staff is requesting an exception to the Procurement By-law to award tenders by delegated authority report for joint construction projects where the City's costs is less than \$5,000,000 regardless of the total project costs. This will facilitate the timely completion of this work.

Respectfully submitted,

Scott Hamilton

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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.