



Legislation Text

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TAMRMS#: B09

Amendments to Policy C-CAO-01 City Manager Delegations

Presented by: Diane McMordie, Director, Finance and Assessment/CFO

RECOMMENDED MOTION:

That the Community Growth & Infrastructure Standing Committee recommends to Council that the proposed amendments to Policy C-CAO-01 City Manager Delegations, provided as an attachment to the November 9, 2020 agenda report titled "Amendments to Policy C-CAO-01 City Manager Delegations", be approved.

PURPOSE OF REPORT

This report supports the implementation of recommendations arising from the MNP Procurement review, by recommending that approval of all sole source procurement contracts be within the authority of the Chief Administrative Officer.

ALIGNMENT TO COUNCIL STRATEGIC PRIORITY

N/A

ALIGNMENT TO SERVICE DELIVERY

N/A

ALIGNMENT TO COUNCIL (OR COMMITTEE) DIRECTION OR MANDATORY STATUTORY PROVISION

N/A

BACKGROUND AND DISCUSSION

To create efficiencies and modernize the organization as we continue to grow, one of the recommendations within the MNP audit of procurement at the City was to increase the thresholds related to when a formal competitive procurement is required under Administrative Directive A-PUR-01.

Currently the spending thresholds within the directive are set much lower than is required under the related trade agreements. The impact of this is that we are preparing and evaluating many more Requests for Proposals (RFPs) and Invitations to Tender (ITTs) than are required. Managing this

process is very time consuming and is creating capacity issues within the organization -- for what MNP suggests may be limited benefit. The planned changes to the Administrative Directive will allow more procurements to utilize the 3 quote process (which is still a competitive procurement process) rather than a full public tender which is more complicated and expensive, not only for the City itself but also for private and non-profit sector businesses that are interested in contracting with the City.

In order to gain the most benefit from these changes, the corresponding contract signing authorities also need to be increased to allow for effective management of the process. Best practices would indicate that signing authorities in general should be placed at the lowest level in the organization where accountability lies. To be in line with the procurement thresholds, spending authority limits need to be increased at all levels of the organization -- always of course with the proviso that nobody in Administration, from the CAO on down, has the authority to spend beyond a Council approved budget except in emergency situations.

Most of the planned procurement process improvements are within the purview of the CAO under administrative directive. However, there is one area related to procurement approval levels that is currently considered a policy matter for Council - the issue of sole source procurements. Currently the CAO Delegations Policy requires any sole source procurement > \$100,000 to be approved by Council.

One possible improvement would be simply to request that this dollar limit of delegation be increased - say, to \$1 M - but Administration believes it would be more appropriate to remove the dollar limit altogether and instead specify that approval of ALL sole source contracts lies within the authority of the CAO. Factors leading to this conclusion are:

1. Council, in their governance role, is responsible for the approval of all capital projects and operating budgets. The MGA already prevents the CAO from spending money not approved by Council in a budget or by a specific resolution, except for emergency spending.
2. The method of procurement (i.e. competitive bid vs. sole source) is an administrative function, not within the responsibility of Council to make policy, pass bylaws and adopt budgets.
3. There are internal processes, within the administrative purchasing directive, that define the processes and documentation required before a sole source contract is awarded. This directive ensures that we can support our decisions against trade agreement challenges.
4. Council Members generally do not have specific knowledge around procurement laws and processes.
5. Since 2016, approximately 10 sole source procurements > \$100,000 were brought to Council for approval. 60% of these were sole sourced for the main reason that the equipment/upgrade had to be technically compatible with existing systems (the original choice of systems would have been competitively bid). This is the most common reason for a sole source in our organization and is very low risk from a procurement perspective.
6. Administration has not found a case where Council has questioned or denied a sole source request.

The proposed amendments to this policy will support the effective implementation of one of the key recommendations from the MNP Procurement audit.

STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

City departments are supportive of this change which will then allow the administrative directive to be updated to allow for more autonomy and likely faster procurement processes.

Financial:

There are no direct financial implications to the recommendation.

Legal / Risk:

The risk of a challenge on a sole source procurement does not increase/change by delegating this authority entirely to the CAO but allows for more efficient processes.

Program or Service:

None at this time

Organizational:

Subsequent to this change in Council Policy, Administrative Directive A-PUR-01 Purchasing Policy will be updated to amend tender thresholds and contract authority creating the proper level of accountabilities and will help to address capacity constraints.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

If Council does not wish to support the recommendation, the following alternatives could be considered:

Alternative 1. Keep that section of the policy in place but increase the limit to \$1,000,000

Alternative 2. Make no changes to the existing policy

Report Date: November 9, 2020

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Committee/Department: Finance & Assessment Services

Deputy Chief Administrative Officer: Kerry Hilts

Chief Administrative Officer: Kevin Scoble