

Clause No. 15 in Report No. 12 of the Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 26, 2014.

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AUTHORITY TO AWARD CONTRACTS FOR TENDERS

Committee of the Whole recommends adoption of the recommendations contained in the following report dated June 19, 2014 from the Regional Solicitor:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council approve an amendment to the Purchasing Bylaw to authorize Commissioners to award contracts resulting from tenders up to \$500,000.
2. Bylaw 2014-17 be repealed, and the Regional Solicitor prepare an amended bylaw for consideration of Council.

2. PURPOSE

This report recommends an amendment to the Purchasing Bylaw to authorize Commissioners to award contracts resulting from tenders up to \$500,000 so that Commissioners' monetary authority for awarding contracts resulting from tenders aligns with their monetary authority for awarding contracts resulting from RFPs.

3. BACKGROUND

The Region's Purchasing Bylaw was reviewed and amended in February, 2014 in accordance with the requirements in the Purchasing Bylaw and in accordance with the *Municipal Act, 2001*

The *Municipal Act, 2001* requires all municipalities to adopt and maintain policies with respect to the procurement of goods and services. Bylaw 2014-17 (the "Purchasing Bylaw") and its companion procedures set out the methodology for purchasing goods and services and establish expenditure limits for Regional staff.

The Purchasing Bylaw provides for a review every five years to evaluate its effectiveness. In accordance with this requirement, Bylaw 2009-41 (the “2009 Purchasing Bylaw”) was subject to a comprehensive staff review in 2013 and early 2014. The amended Purchasing Bylaw was subsequently enacted by Council in February, 2014. Under the 2009 Bylaw, Commissioners were authorized to award contracts as a result of an RFP process to a maximum of \$100,000. The Chief Administrative Officer (“CAO”) was authorized to award contracts to a maximum of \$500,000. Council authorized an increase to these monetary authorities to \$500,000 and \$2,000,000, respectively.

Under the 2009 Bylaw, the CAO was authorized to award contracts arising from tenders providing that the award was made to the bidder submitting the lowest cost responsive bid. There was no authority for Commissioners to award tenders. The authority to award tenders did not change under the new Purchasing Bylaw.

The Region’s boards and corporations customarily align their procurement policies with those of the Region following amendment to the Region’s Purchasing Bylaw

Customarily, when the Region’s Purchasing Bylaw has been amended, Legal Services staff work with staff from Regional boards and corporations to align the respective Purchasing Bylaws of those boards and corporations with the Region’s amended Purchasing Bylaw. During the process of working with York Regional Police (“YRP”) staff to amend the Police Services Board (“PSB”) Purchasing Bylaw, it was suggested that there was no specific policy reason why Commissioners’ respective monetary authority levels for the award of tenders and RFPs could not align, and that such an alignment would not be inconsistent with the purposes, goals and objectives of the Purchasing Bylaw.

The amended PSB Purchasing Bylaw was enacted on May 14, 2014. Ultimately, the amended PSB Purchasing Bylaw aligned the respective monetary authorities of the Chief and the Deputy Chiefs of Police (respectively analogous to the Regional CAO and Regional Commissioners) to award contracts arising from tenders with their respective authorities to award contracts arising from RFPs. This alignment of monetary authority will be recommended going forward when the Purchasing Bylaws of Housing York Inc. (“HYI”) and York Region Rapid Transit Corporation (“YRRTC”) are reviewed and amended.

Accordingly, senior staff recommends that a similar alignment be undertaken at this time with respect to the Region’s Purchasing Bylaw so as to maintain consistency between the procurement practices of the Region and its boards and corporations. There are no other amendments or revisions to the Region’s Purchasing Bylaw at this time.

4. ANALYSIS AND OPTIONS

A minor amendment to the Purchasing Bylaw is required to establish common levels of award authority for tenders and RFPs

With respect to Requests for Tenders, section 6.8 of the Purchasing Bylaw presently reads as follows:

The Chief Administrative officer may award the contract provided that the award is made to the bidder submitting the lowest cost responsive bid.

The alignment of monetary authority for the award of tender contracts with that of RFP contracts could be achieved with the following amendment to section 6.8:

- (a) Commissioners may award the contract up to \$500,000, provided that the award is made to the bidder submitting the lowest cost responsive bid.
- (b) The Chief Administrative Officer may award the contract provided that the award is made to the bidder submitting the lowest cost responsive bid.

The requirement to report to Council on the award of all contracts arising from tenders would remain unchanged

The requirement in section 6.9 of the Purchasing Bylaw to submit a quarterly report to Council to advise of the award of any contract as a result of a request for tenders will not change; it will, however, apply to contracts awarded by Commissioners as well as those awarded by the CAO.

Link to key Council-approved plans

The review of the Region's Purchasing Bylaw supports the 2011 to 2015 Strategic Plan which provides a commitment to Strengthened Organizational Capacity by applying continuous improvement activities to core business systems and practices.

5. FINANCIAL IMPLICATIONS

The recommended amendment to the delegated authority to award tender contracts and align such authority with the award of RFP contracts will continue to support the Region's objectives of obtaining goods and services that reflect best value and fiscal prudence. There are no other financial implications associated with the recommended amendment.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal impacts directly arising from this report.

7. CONCLUSION

The proposed amendment would align the Region's Purchasing Bylaw with the Purchasing Bylaws of its boards and corporations, and is consistent with best procurement practices. Further, the proposed amendment is consistent with the purposes, goals and objectives of the Purchasing Bylaw.

For more information on this report, please contact Dan Kuzmyk, Senior Counsel, Litigation at Ext. 71401.

The Senior Management Group has reviewed this report.