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**Halifax Regional Council
December 5, 2006**

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Cathie O'Toole, CGA, Acting Director, Finance

DATE: November 16, 2006

SUBJECT: Procurement Policy - Committees of Council and Community
Committees

INFORMATION REPORT

ORIGIN

At the meeting of Regional Council, November 7, 2006, staff was asked to examine the procurement and tendering policy for HRM committees and address how HRM applies these policies to committees of Council and community committees.

BACKGROUND/DISCUSSION

The Procurement Policy (Administrative Order #35) contains guidelines established to ensure the most cost effective and cost efficient methods are used to purchase goods and services for the Halifax Regional Municipality in the manner approved by Council.

DISCUSSION

Under the terms of the Municipal Government Act (Section 24 (4)), standing, special and advisory committees established by Council are required to operate in accordance with the same procedural policy established for Council. As the Procurement Policy (Administrative Order No. 35) is an approved policy of Council, all committees established by Council must conduct their duties in accordance with the Procurement Policy.

For most committees of Council, a staff person acts as a liaison between HRM and the committee ensuring that the committee adheres to all HRM policies including the Procurement Policy. For example, in the proposed terms of reference for the Halifax-Dartmouth Canada Day Committee, the HRM Civic Events & Festival Staff Coordinator fulfils this role ensuring that all HRM policies for expenditures are adhered to.

BUDGET IMPLICATIONS

None

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

There are no recommended alternatives.

ATTACHMENTS

Administrative Order No. 35, Procurement Policy

Procurement Policy - Committees of Council and Community Committees

Council Report

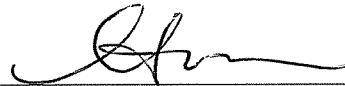
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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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**HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER 35
PROCUREMENT POLICY**

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**Halifax Regional Municipality
Administrative Order Number 35
Procurement Policy**

Be it resolved, as an Administrative Order of the Council of the Halifax Regional Municipality, pursuant to Section 31(2) of the *Municipal Government Act*, as follows:

Short Title

The Administrative Order may be cited as Administrative Order No. 35, the Halifax Regional Municipality Procurement Administrative Order.

Policy Statement

1. The Halifax Regional Municipality Council directs the operation of the Regional Municipality through its approved programs and policy. **The purpose of this policy is to establish purchasing guidelines to ensure the most cost effective and cost efficient methods are used to purchase goods and services for the Regional Municipality in the manner approved by Council.**

Guiding Principles

2. The following principles will guide the procurement practices of Halifax Regional Municipality:
 - (a) Procurement policy provides a direction for the expenditure of funds to complete the programs approved by Regional Council in the annual Operating and Capital Budget.
 - (b) Procurement policy and procedures should provide the most cost efficient and cost effective methods to purchase and dispose of all goods and services for operations of Halifax Regional Municipality.
 - (c) The procurement process is to be open, fair, and consistent.
 - (d) The total cost of acquisition is to be considered. (Costs such as repair cost, staff training, operation cost, and disposal are to be considered rather than just the lowest invoice price).
 - (e) Procurement methods are to encourage competitive bidding for the supply of goods and/or services.
 - (f) To use suppliers, who can be expected to provide satisfactory performance, based on:
 - (i) performance
 - (ii) previous contracts
 - (iii) financial and other resources to complete the contract bid upon
 - (iv) references

(g) To encourage opportunities to partner with the business community to provide services to and for Halifax Regional Municipality in a cost effective and cost efficient manner.

(h) To procure necessary goods and services with due regard to the preservation of the natural environment and to encourage suppliers to supply goods incorporating recycled materials where practical.

Definitions

3. (1) Bid - Refers to a competitive bid received from either a Request for Quotation, Tender or Request for Proposal.
- (2) Procurement Section - refers to the Procurement Section of the Finance Business Unit.
- (3) Public Request for Submission - refers to Tenders, Call for Proposals, Two Phase Bids etc., over the value of \$50,000.

General

4. (1) This policy applies to all Business Units, Agencies, Boards and Commissions of Halifax Regional Municipality over which the Regional Municipality has jurisdiction.
- (2) The procurement of goods and services will be facilitated by the Procurement Section according to this policy.
- (3) Halifax Regional Municipality will be under no obligation to accept the lowest bid or any bid received in response to a verbal or written request.
- (4) Halifax Regional Municipality may remove a supplier name from consideration for a contract for up to three years based on poor performance or non- performance on a contract.
- (5) The Procurement Section shall work with the user departments to combine requirements where possible and encourage overall standardization of items to reduce the overall cost to the Municipality.
- (6) The Procurement Section shall work with other levels of government, other agencies, boards and commissions, and associations such as the F.C.M. (Federation of Canadian Municipalities) and the U.N.S.M. (Union of Nova Scotia Municipalities) to encourage standardization of items and/or to reduce overall cost to the Municipality.

Authority of the Chief Administrative Officer

5. (1) The Chief Administrative Officer (C.A.O.) has the authority to award or purchase all goods or services that are within the budgets approved by Regional Council and as guided by this Procurement Policy.
- (2) The C.A.O. may authorize procedures consistent with this policy and may delegate the authority under this policy.

(3) Financing purchases: The CAO, or his designate, may authorize financing arrangements such as loans, leases, rentals, etc. for the purchase or rental of goods, services, equipment or property on behalf of the HRM where the purchase is compliant with the other conditions and award limits within this policy and the period of financing does not exceed 5 years. The total lease cost will be used to determine the contract award amount.

Purchasing Process

6. (1) The following guidelines will be followed for the purchase of goods and services for Halifax Regional Municipality:

(a) **Up to \$1,000** - The acquisition of goods and services having a value up to \$1000 and not covered by a Price Agreement or supplied by the Municipal Stores System, may be purchased by the department in accordance with the principles set out in this policy.

(b) **More than \$1,000 but less than \$10,000** - For the acquisition of Goods and services with a value of at least \$1,000 but less than \$10,000, at least three quotations will be solicited by the Procurement Section in consultation with the user department. These quotations should be written except in cases of insufficient time, minor purchases or standardized supplies. The requisition is to be authorized by a Director of the user department (or designate) and the funds are clearly identified in the approved operating or capital budget. These opportunities will be posted on the HRM website whenever possible.

(c) **More than \$10,000 but less than \$50,000** - For the acquisition of Goods and Services with a value of at least \$10,000 but less than \$50,000 a least three written quotations will be solicited by the Procurement Section in consultation with the user department. Procurement will post these opportunities on the HRM website. The requisition is to be authorized by the Director (or designate) of the user department and the funds are clearly identified in the approved or capital budget.

(d) **\$50,000 or greater** - For the acquisition of Goods and Services with a value of more than \$50,000 the Procurement Section in consultation with the requisitioning department will issue a public request for submissions. These acquisitions will be advertised in one or more publications of general circulation and the HRM website. Tenders are posted in this range will be acknowledged at a public opening at a designated date and time. The requisition to be authorized by the Director of the user department and the funds are identified in the approved operating or capital budget.

Methods of Procurement

7. The following are the Methods of Procurement to be used under this policy:

(1) **Low Value:** Purchases that are random in nature, and are not included in a Price Agreement or available in Inventory, under the value of \$1,000 may be purchased by the department, using either a Purchase Order, Petty Cash, Cheque or Halifax Regional Municipality Credit Card.

(2) **Price Agreements:** In order to guarantee a continuous supply of various goods and services which are required on a day to day basis, while at the same time assuring that the competitive bidding system is followed, the Procurement Section shall establish Price Agreements. These arrangements between the Regional Municipality and the supplier commits the seller to provide goods or services at a specific price for a specific period of time. These agreements reduce the number of individual bids and reduce overall cost due to the higher volume gained by combining the requirements of a number of departments. User departments can then draw supplies directly from these agreements. Price agreements are governed by the purchasing guidelines listed in this policy.

(3) **Tenders:** An invitation to tender solicits competitive bids. It is used when detailed specifications are available that permit the evaluation of tenders against clearly stated criteria and specifications. A request for tenders is a formal, competitive, sealed- bidding process. It is normally used for the procurement of goods, services, equipment, and construction. Normally Bid Deposits and performance security are required. The bids and prices are provided without condition or reservation and where an award can be made without negotiation. Submissions are compared to the specification and requirements contained in the tender documents. The award is normally to the lowest total cost bid received from a responsible bidder meeting the requirements of the tender.

(4) **Two Phase Bids:** Where detailed specifications are not available or it is impractical to prepare a specification based on price, a two phase bid may be issued, inviting the submission of bids as follows:

- ▶ Phase one: one or more steps in which bidders submit proposals, for evaluation either with or without prices in a separate submission and
- ▶ Phase two: Only those bidders whose bids were determined to be acceptable will be entitled to submit priced bids for consideration or, where prices have been separately submitted in phase one, such bids are opened and awarded to the lowest overall cost.

This type of procurement has the advantage of a request for proposal in phase one and the advantages of a tender in phase two.

(5) **Request for Proposal:** A Request for Proposal is a formal invitation to suppliers to describe how their services, methods, equipment or products can address and/or meet specific needs of the Municipality. It is used when a supplier is invited to propose a solution to a problem, requirement, or objective. Unlike tenders Request for Proposals are compared to each other to assess the best proposal.

Negotiations may be conducted with bidders after the date for the receipt of proposals provided such discussions, negotiations are conducted to:

- ▶ Award equitable treatment to each acceptable bidder with respect to an opportunity for discussion and the revision of the proposal.
- ▶ Prevent the disclosure of the content of the discussion or negotiations with one bidder to another bidder.

Proposals submitted in response to a Request for Proposal need not be opened in

public but will be opened in presence of at least one witness. A list of the submissions will be available to the public and the proponents upon request.

An award of a contract based upon a Request for Proposal will be made to the supplier, whose proposal is determined to be the most advantageous to the Municipality based upon criteria for evaluation set out in the Request for Proposal and equitably applied to all proposals.

(6) Request for Quotation: Is an informal request for prices for goods and services and is normally used where bid deposit and performance bonds are not required and where the cost of the work does not warrant the time and level of effort required for a formal tender process. Quotations should be written but can be verbal depending upon the cost of the goods or services and time constraints..

(7) Negotiation: Negotiations with one or more suppliers for the supply of goods and/or service would take place when any of the following conditions exist:

- (a) Due to market conditions, goods and/or services are in short supply
- (b) There is only one source of the goods or services
- (c) Efforts at breaking identical bids have previously been unsuccessful and the same goods or services are required again
- (d) All bids received are not acceptable or exceed the amount budgeted for the purchase
- (e) The extension, or reinstatement of, and existing contracts would be more cost effective or beneficial to the Municipality. The extension or reinstatement of existing contract are subject to the approvals listed in section 8.0 Award of Contracts.
- (f) When authorized by Council

(8) Sole Source Purchases: This occurs when there is only one available supplier of a required product or service that meets the needs of the Municipality. Negotiation is the method of purchase used to complete the terms and conditions for this purchase. A single source purchase occurs:

- (a) Where the compatibility of a purchase with existing equipment, facilities or service is a paramount consideration and the purchase must be made from a single source;
- (b) Where an item is purchased for testing or trial use;
- (c) Where the Municipality purchases supplies for resale.
- (d) Where the Municipality has a rental contract with a purchase option and such purchase option could be beneficial to the Municipality;
- (e) Notwithstanding anything in this policy, where a purchase is determined by Council to be fair and reasonable and is made from a nonprofit corporation supported by the Municipality may make such a purchase as a single source purchase.
- (f) Where items are offered for sale by tender, auction or negotiation such purchase will be deemed to be a single source purchase and the C.A.O. may authorize the submission of a bid or the conduct of negotiations where the C.A.O. determines the purchase to be clearly in the best interest of Halifax Regional Municipality.

(g) For matters involving security, police matters, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the contractor or the Municipality. Such purchases may be made as a single source purchase. Purchases of this nature must be approved by the C.A.O. Contracts over the value of \$50,000 must be reported to Council (in camera) when appropriate.

(9) Emergency Purchases: An emergency purchase occurs when a situation creates immediate and serious need which may not be reasonably met by any other procedure and includes without limitation:

- (a) A condition where lack of supplies or services may adversely affect the functioning of civic government, threaten public or private property or the environment, or jeopardize the health or safety of the public;
- (b) Interim contractual arrangements following the expiration; or breach of a contract; or the receipt of unacceptable or uncompetitive bids.

Emergency purchases are completed using the most expedient method, but will take economy into consideration.

Limits for emergency purchases shall be as indicated in Section 6. However, in each case the authorizing person is required to report the emergency purchase, in writing, to the next level of authority with a copy to the Manager of Procurement.

Award of Contracts

8. (1) All publicly advertised tenders and request for proposals shall be presented to the C.A.O. for approval except as noted below. A report of the purchasing process and details of the purchase will be prepared by the Procurement Section and approved by the Director (or designate) and forwarded to the C.A.O. for approval.
- (2) Awards less than \$25,000 can be committed by the Manager of Procurement in conjunction with the user department
- (3) Awards over the value of \$25,000, but below the value of \$50,000, can be committed by the Manager of Procurement with concurrence of the appropriate Director. A Director may delegate all or a portion of this approval to a Manager depending upon operational requirements.
- (4) The CAO, or his designate, may approve the award of contracts under the following conditions:
 - (a) Where the funds and program have been approved by Halifax Regional Council as part of the annual business planning and budget process and the expenditure will not result in an over-expenditure of the entire budget.
 - (b) Where the purchase was the result of a public procurement process conforming to the HRM procurement policy.
 - (c) Where the tender is awarded to a supplier with the lowest cost, or highest revenue, meeting specifications.

- (d) Where the award of a Request for Proposal is made to the highest scoring proponent based upon evaluation criteria within the Request for Proposal.
- (e) Where the award does not exceed \$100,000.00* dollars for the purchase of goods, equipment, services, or construction.
- (f) Where the purchase is a sole source purchase not to exceed \$50,000.00.
- (g) Where there is no legislative requirement to obtain Halifax Regional Council approval.
- (h) Where the CAO does not decide that the award is a matter best dealt with by Halifax Regional Council.

(5) A quarterly report to Regional Council of awards of contracts over the value of \$50,000 approved by the CAO or his designate shall be made available to Regional Council and shall show the name of the contract, the name of the successful bidder, the amount of award, any person or company to whom a single or sole source has awarded, the amount of award and the budgetary provision.

Supplier Performance

9. (1) Suppliers may be subject to disqualification if there is sufficient evidence of consistent failure to meet the standards specified by Halifax Regional Municipality. The Procurement Section will maintain supplier performance files. Information in this file is supplied by the requisitioner, receivers and the procurement staff. Suppliers may be evaluated based on competitive price quality of a product, contract adherence and performance, after sales service and replies to invited tenders. Upon reasonable notice in writing to the supplier involved, and after a reasonable opportunity for response, a supplier can be disqualified for a period not exceeding three years from participation in a solicitation for goods or services
- (2) Suppliers shall be disqualified when:
 - (a) conviction for a criminal offense of a person or a director or official or such person relating to obtaining or attempting to obtain a contract or subcontract. An indication of lack of business integrity or honesty which directly and serious effects the responsibility of the contractor.
 - (b) Serious breach of contract indicating an unwillingness to perform a contract in accordance with the terms and conditions or specifications or a record of unsatisfactory performance of one or more contracts in accordance with the terms and conditions thereof or in accordance with its specifications or both,
 - (c) The offer of any gratuity to an official or employee of the Municipality by a supplier or contractor for consideration.
- (3) A written decision shall be issued to the person disqualified or suspended setting out its reasons for disqualification or suspension, to the usual business address of that person as shown in the records of the purchasing section.
- (4) Disqualification will be approved by the C.A.O..

Disposal of Surplus Equipment

10. (1) The Procurement Section shall accumulate surplus assets from the user departments. Items that are likely to be of use to other departments of Halifax Regional Municipality can be transferred, after notice is given to all departments of the availability of these items.
- (2) Surplus assets over the value of \$100,000 shall be disposed of by Public Tender and contract for disposal of such assets shall be awarded by the C.A.O..
- (3) In other cases surplus assets shall be disposed of by either public tenders, request for quotation or auction as reasonably practical in the circumstances.
- (4) The C.A.O. may award the disposal of surplus material without competition to any non-profit corporation, association, or entity, or any Municipality, Crown Corporation, School Board or level of government.

Contract Documents, Bid and Performance Securities and Specifications

11. (1) The C.A.O. may from time to time approve such standard forms including bid and performance securities, if any, for purchases by Invitation to Tender, Request for Proposals, Request for Quotations, single source, or emergency purchases as well as forms of contract for types of purchase including but not limited to construction, supplies and installation or service as they may deem advisable.
- (2) Bid bonds, Performance bonds and other securities including Labour and Material bonds shall be required for such purchases in such form and in such amounts, as the C.A.O. deems advisable.

Environmental Purchases

12. (1) To procure necessary goods with due regard to the environment the Halifax Regional Municipality will follow the statement of Principle as adopted by the Association of Canadian Cities for Environmentally Sound Strategies.

"In order to increase the development and awareness of Environmentally Sound Products, Procurement Staff, in conjunction with Departments, will review their contracts and tender specifications for goods and services, to ensure that wherever possible and economical, specifications are amended to provide for expanded use of products and services that contain the maximum level of post-consumer waste and/or recyclable content. This will be done without significantly affecting the intended use of the product or service. Also it is recognized that cost analysis is required in order to insure that the products are available at competitive prices."

Special Services

13. (1) Legal Services - Legal Services will be acquired by staff based upon work requirements from a roster of lawyers selected through a publicly advertised Request for Proposal based upon qualifications, experience, services offered, past performance, proposed fees and other relevant considerations. The selection of the

lawyer from the roster in an individual case shall be based upon the particular expertise required for that case. Legal services having a value of less than \$50,000 may be acquired by the (Director of Administrative and Legal Services) in consultation with the Director(s) of the user department(s). (These services include expert witnesses, and subject experts required for a legal proceeding, hearing or similar matter.) Legal services having a value of \$50,000 or more shall be approved by the CAO (or designate). A Request for Proposal for legal services will be advertised, at a minimum, every three (3) years.

(2) Architectural, Engineering, Surveying Service, and Real Estate Service when these services are less than \$50,000, will be acquired by staff from a roster of consultants selected through a publicly advertised Request for Proposal. Consultants will be selected, by project, based upon qualifications, experience, services offered, past performance, proposed fees, and other relevant considerations. A Request for Proposal for these services will be publicly advertised, at a minimum, every (3) years. Required services over the value of \$50,000 will be publicly advertised.

(3) Banking Services - General Banking services will be acquired by public advertisement at intervals not greater than every five years. These services shall be contracted on a one year term to be renewed on an annual basis up to a five year maximum on terms satisfactory to Halifax Regional Municipality.

(4) Auditing Services - Services of External Auditors will be acquired by public advertisement at intervals not greater than every five years. These services may be contracted on a one year term to be renewed on an annual basis up to a five year maximum on terms satisfactory to Halifax Regional Municipality. Selection of an auditor shall be completed by the Audit Committee of Council who will recommend the selection of an Auditor to Council. Annual renewal of the contract for Audit services will be made by the Audit Committee.

Tie Bids

14. In the case of a tie bid, the Procurement Manager is to request the tie bidders submit a final offer. If this is not successful and a tie bid still occurs, the contract will be awarded to the local bidder.

Done and passed in Council this 8th day of June, 2004

Mayor

Municipal Clerk

I, Jan Gibson, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on. June 8,

2004.

Clerk

Jan Gibson, Municipal

*As revised 13 September, 2005.