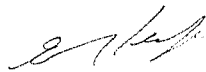


Audit & Finance Standing Committee
April 18, 2012

TO: Chair and Members of the Audit & Finance Standing Committee



SUBMITTED BY: _____
Greg Keefe, A/Director of Finance and ICT/CFO

DATE: April 1, 2012

SUBJECT: _____
Amendments to Administrative Order # 35 (Procurement Policy)

ORIGIN

1. The Public Procurement Act, Government of the Province of Nova Scotia, May 2011
2. Review of Request of Proposal (RFP) Process - Procurement, Municipal Auditor General's Report - November 2011
3. Motion of Environment and Sustainability Standing Committee of March 1, 2012 to ask the Audit and Finance Standing Committee to examine opportunities to revise the Disposal of Surplus Assets Policy to enable donation of furniture, including filing cabinets, to not-for-profit community groups and report back to the Standing Committee on these opportunities.

RECOMMENDATION

It is recommended that the Audit & Finance Standing Committee recommend that Halifax Regional Council approve amendments to Administrative Order #35, the Procurement Policy Administrative Order, as outlined in Attachment "A".

BACKGROUND

The Public Procurement Act was adopted by the Province of Nova Scotia in May 2011. The key features of the Act are as follows:

- It applies to all public sector entities in the province including: municipalities (and its ABC's) and municipal water utilities; universities and the Nova Scotia Community College; health and housing authorities; school boards and crown corporations.
- It provides an overarching policy guidance that is in keeping with best public procurement practices and aims to improve transparency, accountability and standardize processes, policies and practices.
- It recognizes the contribution of public purchasing to the economy of Nova Scotia and provides a significant opportunity to explore strategic procurement and to access knowledge and procurement expertise within the public sector through collaboration.
- It acknowledges the increasing complexity of the trade agreements and their impact on public procurement.
- It provides for a Procurement Advisory Group consisting of representatives from the various public sector entities subject to the Act to provide advice and recommendations to the Chief Procurement Officer who is responsible for the overall vision, leadership and strategic direction of procurement in the Province. Currently, Halifax Regional Municipality has representation on this advisory group.
- It provides for future regulations which may include standards for suppliers and public sector procurement employees, and outline specific annual reporting requirements, alternative procurement exemptions, and the supplier complaint process.
- It requires public entities to ensure their procurement policies are consistent with the requirements of the Act.

Further to a recommendation put forward by the Municipal Auditor General in the report Review of Request for Proposal (RFP) Process - Procurement dated November 2011, staff has reviewed certain aspects of the Procurement Policy for clarity and appropriateness with respect to the achievement of best value.

Staff has also reviewed the policy in light of a motion of the Environment and Sustainability Standing Committee for the Audit and Finance Standing Committee to examine opportunities to revise the Disposal of Surplus Assets Policy to enable donation of furniture, including filing cabinets, to non-profit community groups. Staff provided information on this request to the Audit and Finance Standing Committee in a report dated March 8, 2012. This item was reviewed at a meeting held on March 21, 2012 and deferred pending review of this report.

DISCUSSION

Administrative Order #35, the Procurement Policy, is consistent with procurement best practice, however, in light of the Public Procurement Act the policy requires revisions for clarity and consistency purposes as follows:

Policy Statement - the restatement of the overall policy intent to reflect purchasing guidelines that provide for a fair, open, consistent and transparent procurement process resulting in best value. Best Value is specifically defined in the policy as “evaluating bids not only on purchase price and life cycle cost considerations but also taking into account items such as environmental and social considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in the tender documents”.

Guiding Principles - the restatement of guiding principles to emphasize the achievement of best value, and the addition of the specific acknowledgement of the requirement to respect our trade agreements obligations.

Definitions - an expanded set of definitions to ensure consistency with the Public Procurement Act.

Applicability - the applicability of the policy to all Agencies, Boards and Commissions.

Collaboration - the emphasis on the importance of collaboration with other public sector entities including the Province.

Standing Offers - confirmation that provincial standing offers may be used under the constraints of the procurement policy where it is in the best interest of HRM.

Purchasing Process - conforms to the value thresholds established by the trade agreements and the Public Procurement Act by requiring posting of tender opportunities to the provincial procurement web portal.

Purchasing Methods - the consolidation of sole/single source, emergency purchases and exceptional circumstance purchases into one category. The description of these purchases is consistent with the language in the trade agreements and the Public Procurement Act.

Vendor Complaints Procedure - a process that is consistent with the time frames associated with the Public Procurement Act.

Special Services - the issue of a Request for Qualification for professional services every two years with an update annually.

It should be noted that the Public Procurement Act provides for the development of a set of companion regulations which to-date are not approved. Being mindful of this, staff has put forward revisions to the policy based upon the Public Procurement Act as it exists and best judgement of future regulations based upon procurement best practice.

Based on the Auditor General's recommendations, the following revisions to the policy are proposed:

Contract Amendments - the incorporation of existing CAO administrative guidelines for construction projects.

Purchasing Methods – the elimination of a unique purchasing method for unsolicited proposals and the creation of a grouping of alternative procurement practices.

Based on the motion of the Environment and Sustainability Standing Committee to review the Procurement Policy for opportunities to donate surplus assets, and in particular furniture, to not-for-profit community groups, the following amendment is included:

Disposal of Surplus Assets - the opportunity to re-use surplus assets is extended to include HRM's Agencies, Boards and Commissions, prior to being sent to auction or other competitive method of disposal. The amendments also provide the flexibility to use cost effective methods of disposal for surplus items of nominal/no value or if it is uneconomic to use a competitive process.

In putting forward this recommendation staff has considered the desire to donate surplus assets, namely furniture, to not-for-profit community groups in light of the principles inherent in public procurement and the administrative challenges associated with a surplus assets program.

In addition, the requirement for the CAO to approve the disposal of surplus assets without competition to a not-for-profit corporation, association, or entity or any Municipality, Crown Corporation School Board, or any level of government has been revised to require the approval of Regional Council. This provides greater transparency of the disposal of surplus assets process.

BUDGET IMPLICATIONS

Overall, the Procurement Policy provides for:

1. The direction for the expenditure of funds to complete the programs approved by Regional Council in the annual operating and project budgets
2. The procurement of goods, services, construction and facilities in a fair, open, consistent and transparent manner resulting in best value
3. The total cost of purchasing to be considered rather than only the lowest invoice price
4. Procurement methods that are to encourage competitive bidding.
5. A collaborative and strategic approach to public sector procurement which should result in cost savings.

The net impact of the proposed revisions to the disposal of surplus assets provisions of the Procurement Policy may result in a slight loss of revenue from the diversion of some surplus

items from the public auction for re-use by the agencies, boards, and commissions of HRM and minimal incremental staff costs associated with the administration of an expanded internal redistribution process.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

Not applicable

ALTERNATIVES

The committee could direct staff to revisit certain provisions of the proposed revisions to the Procurement Policy. This is not recommended.

ATTACHMENTS

Attachment "A" – Administrative Order #35

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and 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 # 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 as follows:

Short Title

This Administrative Order shall be cited as Administrative Order Number # 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 that provide for the procurement of goods, services, construction and facilities by the Regional Municipality in a fair, open, consistent and transparent manner resulting in best value as approved by Council.

Guiding Principles

2. The following principles shall guide the procurement practices of Halifax Regional Municipality:
 - (1) Procurement policy provides a direction for the expenditure of funds to complete the programs approved by Regional Council in the annual Operating and Project Budget.
 - (2) The procurement process shall be open, fair, consistent and transparent.
 - (3) For sustainable procurement, the Halifax Regional Municipality shall integrate environmental, economic and social considerations in the procurement process.
 - (4) The total cost of purchasing, installation, maintenance, warranty, continuing support, repair, staff training, operation, energy use, disposal value, and other relevant costs shall be considered, rather than only the lowest invoice price. Appropriately comparable life cycles shall be incorporated into total cost calculations.
 - (5) Procurement methods shall encourage competitive bidding for the supply of goods, services, construction and /or facilities.
 - (6) Halifax Regional Municipality shall use vendors, who provide satisfactory performance, based on:
 - (i) performance
 - (ii) previous contracts

- (iii) available financial and other resources to complete the contract bid upon
- (iv) credentials/experience on similar contracts.

(7) Halifax Regional Municipality shall encourage opportunities to partner with the business community to provide services to and for Halifax Regional Municipality in a manner that achieves best value.

(8) Halifax Regional Municipality shall promote procurement processes and decisions that are consistent with the strategic goals and objectives of the Municipality.

(9) Halifax Regional Municipality shall respect regional, national and international trade agreement obligations and other applicable legislation.

(10) Where there is a conflict with the application of this Policy and the Public Procurement Act and the Regulations thereunder, the Act and its Regulations shall prevail.

Definitions

3. (1) Award - refers to the business decision to enter into a contract for goods, services, construction and facilities.
- (2) Best value - refers to evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in the tender documents.
- (3) Bid - refers to a competitive bid received from either a Request for Quotation, Request for Tender, Two Phase Bid or Request for Proposal.
- (4) Business Unit - refers to the user department requisitioning goods, service, construction and facilities.
- (5) Construction - refers to the construction, reconstruction, demolition, repair or renovation of a building, structure, road or other engineering or architectural work, excluding professional consulting services related to the construction contract unless they are included in the procurement.
- (6) Contract - refers to a contract for the purchase by Halifax Regional Municipality of goods, services, construction and facilities, including the issuance of a purchase order and/or the execution of any agreement evidencing the obligation.
- (7) Facilities - refers to building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.

- (8) Formal Request for Submission - refers to Request for Proposals, Two Phase Bids, etc. over the value of \$50,000 and Request for Tenders over the value of \$100,000.
- (9) Goods - refers to materials, furniture, merchandise, equipment, stationery and other supplies required by Halifax Regional Municipality for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies.
- (10) Personal Services Contract - refers to an agreement, whether or not in writing, establishing an employment relationship between an individual and Halifax Regional Municipality and includes an amending or extension agreement.
- (11) Procurement Section - refers to the Procurement Section of the Finance Business Unit.
- (12) Procurement Web Portal - refers to the public website maintained and operated by the Government of the Province of Nova Scotia.
- (13) Requisition - refers to the request to obtain goods, services, construction and facilities and the authority to initiate the purchase.
- (14) Services - refers to services required by Halifax Regional Municipality for the transaction of its business and affairs, excluding services provided by an employee of Halifax Regional Municipality through a personal services contract.
- (15) Surplus – refers to municipal owned furniture, supplies and equipment (assets) with remaining useful life, which does not meet a Business Unit's current or foreseeable future need and is not considered as waste.

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 listed in Appendix A are exempt from the requirements of this policy.
- (3) This policy shall not apply to the purchase or disposal of Real Property which is covered by separate Council direction. Purchase of parcels of land, including appurtenance fixtures, are not governed by this policy, however, the purchase of construction materials and/or services used to build, renovate, repair or improve Real Property shall be governed by this policy.
- (4) The procurement of goods, services, construction and facilities shall be facilitated by the Procurement Section according to this policy.

(5) Halifax Regional Municipality shall be under no obligation to accept the lowest bid or any bid received in response to a verbal or written request.

(6) Halifax Regional Municipality may remove a vendor name from consideration for a contract for up to three years based on poor performance or non-performance on a contract.

(7) The Procurement Section shall work with Business Units to combine requirements where possible and encourage overall standardization of items to reduce the overall cost to the Municipality.

(8) The Procurement Section shall collaborate with other governments, agencies, boards and commissions, public sector entities and associations such as the F.C.M. (Federation of Canadian Municipalities) and the U.N.S.M. (Union of Nova Scotia Municipalities) to attain greater consistency and efficiencies in the procurement process.

(9) The contract award limits prescribed by this policy shall be construed to be the sum of all costs less any rebates plus all applicable net taxes or all revenues.

Authority of the Chief Administrative Officer

5. (1) The Chief Administrative Officer (CAO) has the authority to award or purchase all goods, services, construction and facilities that are within the budgets approved by Regional Council and as guided by this Procurement Policy.
- (2) The CAO may authorize procedures consistent with this policy and may delegate the authority under this policy.
- (3) The CAO 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 Halifax Regional Municipality where the purchase is compliant with the other conditions and award limits within this policy and other legislative requirements and the period of financing does not exceed 5 years. The total lease cost will be used to determine the contract award amount.

Responsibilities

6. (1) The Business Unit shall be responsible for:
- (a) Procurement activities within their unit and are accountable for achieving the specific objectives of the procurement project.
 - (b) Ensuring that bidding opportunities are equitably distributed among all potential bidders in an area where procurement authority has been delegated, and all interested and qualified bidders are evaluated on a consistent and equitable

basis.

(2) The Procurement Section shall be responsible for:

- (a) The administration of the Procurement Policy.
- (b) Providing professional procurement advice.
- (c) The Administration of call for bids and ensuring compliance with the terms and conditions of the call for bids.
- (d) The standardization of all procurement procedures.
- (e) The disposal of surplus assets.
- (f) The monitoring of compliance with this policy.
- (g) Notifying Directors, of non compliance.

Purchasing Process

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

(a) Up to \$1,000

The acquisition of goods, services, construction and facilities having a value up to \$1,000 and not covered by Standing Offer or supplied by the Municipal Stores System, may be purchased by the Business Unit in accordance with the principles set out in this policy.

(b) \$1,000 but less than \$15,000 by Request for Quotation

For the acquisition of goods, services, construction and facilities with a value of at least \$1,000 but less than \$15,000, opportunities shall be posted on the procurement web portal whenever possible. If this is not practical, at least three quotations will be solicited by the Procurement Section in consultation with the Business Unit.

These quotations shall be written except in cases of insufficient time, minor purchases or standardized supplies in which case they shall be verbal. The requisition is to be authorized by the Director of the Business Unit (or designate) and the funds are to be clearly identified in the approved operating or project budget. Award notices shall be posted on the procurement web portal when the Municipality determines it appropriate.

(c) \$15,000 but less than \$100,000 by Request for Quotation

For the acquisition of goods, services, construction and facilities with a value of at least \$15,000 but less than \$100,000, opportunities and award notices shall be posted on the procurement web portal.

The requisition shall be authorized by the Director of the Business Unit (or designate) and the funds are to be clearly identified in the approved operating or project budget.

(d) \$100,000 or greater by Request for Tender

For the acquisition of goods, services, construction and facilities with a value of \$100,000 or greater the Procurement Section in consultation with the Business Unit shall issue a Formal Request for Submissions. These opportunities shall be posted, at a minimum, on the procurement web portal.

There shall be a public opening at a designated date and time for Request for Tenders in this range. Request for Tender shall be posted and acknowledged. Award notices shall be posted on the procurement web portal. The requisition shall be authorized by the Director of the Business Unit and the funds are to be clearly identified in the approved operating or project budget.

(e) \$1,000 but less than \$50,000 by Request for Proposal

For the acquisition of goods, services, construction and facilities with a value of at least \$1,000 but less than \$50,000 opportunities shall be posted on the procurement web portal.

The requisition shall be authorized by the Director of the Business Unit (or designate) and the funds are to be clearly identified in the approved operating or project budget. Award notices shall be posted on the procurement web portal.

(f) \$50,000 or greater by Request for Proposal

For the acquisition of goods, services, construction and facilities with a value of \$50,000 or greater the Procurement Section in consultation with the Business Unit shall issue a Formal Request for Submissions. These opportunities shall be posted, at a minimum, on the procurement web portal.

There shall be a public opening at a designated date and time for Request for Proposals in this range. A list of submissions (excluding pricing) shall be posted and acknowledged for Request for Proposal. Award notices shall be posted on the procurement web portal. The requisition shall be authorized by the Director of the

Business Unit and the funds are to be clearly identified in the approved operating or project budget.

Methods of Procurement

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

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

(2) **Standing Offers:** In order to guarantee a continuous supply of various goods, service and construction 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 Standing Offers. These arrangements between the Halifax Regional Municipality and the supplier commit the seller to provide goods, services or construction at a specific price for a specific period of time.

These Standing Offers reduce the number of individual bids and reduce overall cost due to the higher volume gained by combining the requirements of a number of Business Units. Business Units can then draw supplies directly from these offers. Standing Offers are governed by the purchase guidelines listed in this policy. Administrative guidelines for the approval of Standing Offers are as developed by the CAO.

Standing Offers of the Government of the Province of Nova Scotia or other public sector entities may be used under the constraints within this policy where it is in the best interest of the Halifax Regional Municipality.

(3) **Request for Tender:** A Request for 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 Tender is a formal, competitive, sealed-bidding process.

Request for Tenders are normally used for the procurement of goods, services, construction and facilities. Bid deposits and performance security are usually 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.

Request for Tenders are normally awarded to the lowest total cost bid received from a responsible bidder meeting the requirements of the tender unless determined not to be best value. Where the lowest total cost is not intended to be the sole determining factor in achieving best value on which the award will be made, the tender documents should contain a description of the method to be used to evaluate the bids as well as the weighted

scale of each factor.

(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 advantage of a Request for Tender in phase two.

(5) **Request for Proposal:** A Request for Proposal is an invitation to proponents to describe how their services, methods, equipment or products can address and/or meet specific needs of the Municipality. It is used when a proponent is invited to propose a solution to a problem, requirement, or objective. Unlike Request for Tenders, Request for Proposals are compared to each other for assessment. A Request for Proposal must include evaluation criteria that will be used to score the proposals.

Discussions may be conducted by Procurement with proponents after the date for the receipt of proposals provided such discussions are conducted to:

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

No one other than the Procurement Section or Legal Services will have those discussions with proponents. Pricing information shall only be released to the public following award of the proposal.

An award of a contract based on a Request for Proposal shall be made to the proponent, 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. As price is only one of the factors taken into consideration in obtaining best value, the contract may not necessarily be awarded to the lowest price proposal.

(6) **Request for Quotation:** A Request for Quotation is an informal request for prices for goods, services, construction and facilities and is normally used where bid deposit and performance bonds are not required and where the cost of work does not warrant the time and level of effort required for a formal tender process. Quotations shall be written but

can be verbal depending upon the cost of the goods, services, construction or facilities and time constraints.

(7) **Request for Information:** A Request for Information is an invitation to suppliers of goods, services, construction and facilities and shall be used to provide information from the marketplace on the scope of work or services contemplated to be procured by the Municipality.

(8) **Request for Expression of Interest:** A Request for Expression of Interest shall be used to determine the interest in the marketplace in providing goods, services, construction or facilities contemplated to be procured by the Municipality.

(9) **Request for Qualification:** A Request for Qualification is an invitation to suppliers of goods, services and construction and shall be used for the purpose of selecting qualified bidders if the nature of the work or services to be performed requires ascertainable minimum standards.

(10) **Negotiation:** Negotiations with one or more suppliers for the supply of goods, services, construction and facilities shall take place when any of the following conditions exist:

- (a) Due to market conditions, goods, services and/or construction are in short supply.
- (b) There is only one source of the goods, service, construction or facilities.
- (c) Efforts at breaking identical bids have previously been unsuccessful and the same goods, services, construction or facilities are required again.
- (d) All bids received are not acceptable or exceed the amount budgeted for the purchase.
- (e) The extension, or reinstatement of existing contracts would be more cost effective or beneficial to the Municipality. The extension or reinstatement of existing contracts are subject to the approvals listed in Section 9.0 Award of Contracts.
- (f) When authorized by Council.

(11) **Alternative Procurement Practices** may be used as follows:

A. Sole Source/Single Source Purchases. These occur:

- (a) To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative.
- (b) Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.
- (c) For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
- (d) For the purchase of goods on a commodity market.

- (e) For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
- (f) For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work.
- (g) For the procurement of a prototype of a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.
- (h) For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership
- (i) For the procurement of original works of art.
- (j) For the procurement of goods intended for resale to the public.
- (k) For the procurement from a public body or a not-for-profit corporation.
- (l) For the procurement of goods or services for the purpose of evaluating or piloting new or innovative technology with demonstrated environmental, economic or social benefits when compared to conventional technology, but not for any subsequent purchases.

The terms and conditions of a sole source/single source purchase shall be negotiated. Sole source/single source purchases over \$25,000 and not exceeding \$50,000 shall be approved by the CAO.

B. Exceptional Circumstances. These occur:

- (m) Where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest.
- (n) Where compliance with the open tendering provisions of this policy would interfere with the Municipality's ability to maintain security or order or to protect human, animal or plant life or health.
- (o) Where items are offered by sale by tender or auction.

Purchases of this nature shall be negotiated and/or bids submitted and must be approved by the CAO.

C. Emergency Purchases. These occur:

- (p) In the absence of bids in response to an open or selective public tender, or when the bids submitted have not been in conformity with the essential requirements in the public tender.
- (q) Where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of open procurement procedures.

Emergency purchases are completed using the most expedient method, but shall take economy into consideration. Limits for emergency purchases shall be as

indicated in Section 7. However, in each case the authorizing person is required to report the emergency in a timely fashion, in writing, to the next level of authority with a copy to the Manager of Procurement.

Award of Contracts

9. (1) All Formal Request for Submissions shall be presented to the CAO for approval except as noted below. A report of the purchasing process and details of the purchase will be prepared jointly by the Procurement Section and the Business Unit and approved by the Director (or designate) and forwarded to the CAO for approval.
- (2) Awards less than \$25,000 may be committed by the Manager of Procurement in conjunction with the Business Unit.
- (3) Awards over the value of \$25,000, but below the value of \$50,000 may 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 Halifax Regional Municipality Procurement Policy.
 - (c) Where the Request for 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 \$500,000 for the purchase of goods, equipment, services, construction or facilities by Request for Tender.
 - (f) Where the award does not exceed \$500,000 for the purchase for goods, equipment, services, construction or facilities by Request for Proposal.
 - (g) Where the purchase is a sole source/single source purchase not to exceed \$50,000
 - (h) Where there is no legislative requirement to obtain Halifax Regional Council approval.
 - (i) Where the CAO does not decide that the award is a matter best dealt with by Halifax Regional Council.
- (5) During the summer months (July - September) and December Holiday break periods, the CAO or his/her 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 and is within scope.
- (b) Where the purchase was the result of a public procurement process conforming to the Halifax Regional Municipality Procurement Policy.
- (c) Where the Request for Tender is awarded to a supplier with the lowest cost, or highest revenue, meeting specifications.
- (d) 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 purchase is a sole source/single source purchase not to exceed \$50,000.
- (f) Where there is no legislative requirement to obtain Halifax Regional Council approval.
- (g) Where the CAO does not decide that the award is a matter best dealt with by Halifax Regional Council.

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

Contract Amendments

- 10. (1) No amendment or revision to a contract shall be made unless the amendment is in the best interest of the Halifax Regional Municipality.
- (2) No amendment that changes the price of a contract shall be agreed to without a corresponding change in requirement or scope of work unless otherwise in the best interest of the Municipality.
- (3) Amendments to contracts shall be subject to the identification and availability of sufficient funds in the approved operating or project budget.
- (4) Contract amendments for construction projects shall be in accordance with the guidelines in Appendix B.

Vendor Performance

- 11. (1) Vendors may be subject to disqualification if there is sufficient evidence of consistent failure to meet standards specified by Halifax Regional Municipality. The Procurement Section shall maintain vendor performance files. Information in this file is supplied by the requisitioner, receivers, and the procurement staff. Vendors may be evaluated based

on competitive price, quality of a product, contract adherence and performance, after sales service and replies to call for bids. Upon reasonable notice in writing to the vendor involved, and after a reasonable opportunity for response, a vendor can be disqualified for a period not exceeding three years from participation in a solicitation for goods, services, construction or facilities.

(2) Vendors 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 or an indication of lack of business integrity or honesty which directly and seriously 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 vendor 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 shall be approved by the CAO.

Vendor Debriefings and Complaints

12. (1) Vendor debriefings will be in accordance with the procedure outlined in Appendix C. A vendor may request a debriefing after the contract is awarded if the request is made within 10 days of the award notice being posted on the procurement web portal.

(2) All vendor complaints, whether directed to an elected official, the CAO, or a member of staff shall be referred to the Manager of Procurement and dealt with in accordance with the procedure outlined in Appendix C.

Disposal of Surplus Assets

13. (1) Business Units shall make surplus assets available to other Business Units and Agencies, Boards and Commissions of the Regional Municipality, before seeking to dispose of them outside of the Regional Municipality. For surplus assets that cannot be redistributed internally, the Procurement Section shall arrange for their sale.

(2) Assets shall be sold by the most effective means in order to obtain the highest net

value for the Regional Municipality. Assets shall be disposed of by either Request for Tender, Request for Quotation, or auction as reasonably practical. Surplus assets with an offer exceeding \$100,000 shall be awarded by the CAO.

(3) Assets that cannot be sold, or for which sales costs exceed the anticipated revenue, other more cost effective disposal methods shall be used. These assets shall be considered as solid waste and disposed of in an environmentally responsible manner, consistent with the principles of sustainable development and in accordance with governing legislation for waste disposal.

(4) The disposal of surplus assets without competition to any not-for-profit corporation, association, or entity or any Municipality, Crown Corporation School Board, or any level of government shall be awarded by Halifax Regional Council.

Contract Documents, Bid and Performance Securities and Specifications

14. (1) The CAO may from time to time approve such standard forms including bid and performance securities, if any, for purchases by Request for Tender, Request for Proposal, Request for Quotation, alternative procurements as well as forms of contract for types of purchases 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 CAO deems advisable.

Special Services

15. (1) Legal Services - Legal Services shall be acquired by staff based upon work requirements from a roster of lawyers selected through a Request for Qualification 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 Legal Services and Risk Management in consultation with the Director(s) of the Business Unit.

Legal services having a value of \$50,000 or more shall be awarded by the CAO (or designate). A Request for Qualification for legal services shall be issued, at a minimum, every three (3) years.

(2) Professional Services (i.e. Architectural, Engineering, Communications, IT, Human Resources) - When these services are less than \$50,000, they shall be acquired by staff from a roster of consultants selected through a Request for Qualification as identified in

each Request for Qualification.

Consultants shall be selected, by project, based upon qualifications, experience, services offered, past performance, proposed fees, and other relevant considerations as outlined in the Request for Qualification. A Request for Qualification for these services shall be issued, at a minimum, every two (2) years with an update annually. A Request for Proposal shall be issued for required services over the value of \$50,000.

Rosters offered by the Government of the Province of Nova Scotia or other public sector entities may be used under the constraints within this policy where it is in the best interest of the Halifax Regional Municipality.

(3) Banking Services - General Banking services shall be acquired by public solicitation 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 shall be acquired by public solicitation 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 and Finance Standing Committee of Council who shall recommend the selection of an External Auditor to Council. Annual renewal of the contract for External Audit services shall be made by the Audit and Finance Standing Committee.

Tie Bids

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

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

Mayor

Acting Municipal Clerk

I, Jan Gibson, Acting 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.

Jan Gibson, Acting Municipal Clerk

Notice of Motion: Councillor Hetherington	May 25, 2004
Approved:	June 8, 2004

Amendment # 1	
Notice of Motion: Councillor Walker	September 6, 2005
Approved:	September 13, 2005

Amendment # 2	
Notice of Motion: Councillor Outhit	June 16, 2009
Approved:	September 22, 2009

Amendment # 3	
Notice of Motion: Councillor Walker	March 1, 2011
Approved:	March 8, 2011

Amendment # 4	
Notice of Motion: Councillor McCluskey	June 28, 2011
Approved:	July 5, 2011

**Procurement Policy
List of Exemptions**

Petty Cash Items:

Training and Education:

Conferences, Conventions and Tradeshow
Newspapers, Magazines & Periodicals (subscriptions)
Memberships
Seminars, Workshops not specifically designed for HRM

Refundable Employee/Other Expenses:

Advances
University Courses
Entertainment
Miscellaneous Non-Travel
Meal Allowances
Travel Expenses
Hotel Accommodation
Refunds: tax, recreation, permits

Employer's General Expenses:

Payroll Deduction Remittances
Grants to Agencies
Medical & Dental Expenses
Debenture Payments
Payment of Damages
Petty Cash Replenishment
Tax Remittances
Sinking Fund Payments
Employee Income
Councillors' Discretionary Funds
Real Property, including land, buildings, easements, encroachments, licences
Licences (vehicles, elevator, etc.)
Charges to and from other government bodies or Crown corporations
Bank Charges and Underwriting Services where covered by agreements

Legal and Special Services:

- Expert Witness Services
- Legal Opinion and Representation
- Court Reporter Services
- Arbitrators and Moderators
- Discoveries (Legal)
- Legal Settlements
- Performing Artists (i.e. Musicians, Clowns, Acrobats, Actors, Educational Performers)

Utilities:

- Water & Sewage Charges
- Power and Related Infrastructure when purchased from the Public Utility
- Telephone Service Invoices
- Cable Television Invoices

Miscellaneous (under \$1,000 only)

- Customs Services Invoices
- Taxi Services Invoices
- Courier Invoices
- Catering, groceries and small incidentals appropriate to purchase on the HRM Purchasing Card
- Postage

Miscellaneous

- Print, Television and Radio Media Advertising Accounts

Contract Amendment Guidelines – Construction Projects

Purpose:

To define the guidelines for approval of contract amendments to construction projects.

Policy:

Contract amendments to construction projects are to be tracked and significant variances addressed. Contract amendments are to be approved in accordance with the following guideline.

- ☐ Contract amendments must be fully funded. Council has approved funds and funds remain for this use. Shortfalls in funding must be addressed in accordance to policy.
- ☐ Cumulative contract amendments that exceed the greater of 10% of the original award amount or \$10,000 must be approved by the Director, for funds to be issued.
- ☐ Cumulative contract amendments that cumulatively exceed the greater of 15% of the original award amount or \$15,000 must be approved by the CAO, for funds to be issued.

Once the cumulative 15% increase or \$15,000 limit has been reached and CAO approval sought, successive approvals for contract amendments require CAO approval. Successive approvals may be given by the Director until the cumulative amendments exceed the threshold for CAO approval.

Procedure:

Approvals for contract amendments must be documented and submitted to Procurement prior to the work being undertaken. Report formats and approval processes will be as approved by the CAO. These reports must be maintained by the Business Unit for reference purposes.

Vendor Complaint Procedure

Purpose:

To define the guidelines for handling vendor complaints.

Policy:

All vendor complaints, whether directed to an elected official, the CAO, or a member of staff shall be referred to the Manager of Procurement or designate to be dealt with in accordance with these guidelines.

Procedure:

Vendors shall to be encouraged to resolve problems directly with Procurement staff wherever possible as many problems can be easily resolved before a complaint is formulated.

A complaint refers to a written objection submitted by a potential vendor regarding a bid solicitation, contract award, or proposed contract for goods, services, facilities or construction.

Complaints shall contain relevant contact information, details of the issue and the resolution being requested. Complaints shall be submitted or referred to the Manager of Procurement and shall be reviewed to determine if further action is warranted.

Complaints may be resolved, dismissed or withdrawn*

Complaints may be dismissed without further consideration at any time in the process, where in the opinion of the Manager of Procurement,

- the complaint on its face is inconsequential.
- the complainant is not a participant in the competitive process (i.e. did not submit a bid).
- the complaint is made more than 10 days after the award notice is posted on the procurement web portal. **
- is otherwise inappropriate for consideration.

The Manager of Procurement shall respond formally to vendor complaints within 45 days of the posting of the award notice on the procurement web portal. If the review is anticipated to extend beyond this time, the vendor will be advised in writing when a response will be provided.

If the complaint is dismissed, the Manager of Procurement shall notify the vendor of their right to appeal the decision to the CAO.

Disputes that are litigious in nature shall be referred to Legal Services.

- * Resolved - the vendor is satisfied with the explanation/solution provided by HRM.
Dismissed - the Manager of Procurement concludes that the complaint is the result of a properly applied fair procurement process.
- ** A request for a vendor debriefing within 10 days of the award notice being posted on the procurement web portal shall be considered sufficient to meet this condition. ** A vendor debriefing shall be held within 30 days of the award notice being posted on the procurement web portal.