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Item No. 4

Halifax Regional Council
June 30, 2009
Committee of the Whole
September 22, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

A handwritten signature in cursive script, appearing to read "Dan English".

SUBMITTED BY:

Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "G. Kaiser".

Geri Kaiser, Deputy Chief Administrative Officer - Corporate Services
and Strategy

DATE: May 24, 2009

SUBJECT: Amendment to Administrative Order #35 (Procurement Policy)

ORIGIN

This report originates from a review of Administrative Order #35, the Procurement Policy.

RECOMMENDATION

It is recommended that HRM adopt as a policy pursuant to the Halifax Regional Municipality Charter, an amendment to Administrative Order # 35, the Procurement Policy Administrative Order, as outlined as Attachment "A" in the staff report dated May 24, 2009.

BACKGROUND

The current Procurement Policy (Administrative Order #35) remains substantially unchanged from the Procurement Policy approved by Halifax Regional Council in November 1996. In May 2004, Council formally adopted the Procurement Policy as an Administrative Order pursuant to the Municipal Government Act and approved one amendment to the policy increasing the value of contracts which may be awarded by the Chief Administrative Officer from \$50,000 to \$500,000 for the purchase of good, equipment, services, or construction and \$250,000 for consulting services subject to certain pre-approved conditions. This was subsequently reduced by Council in September 2005 to a value threshold of \$100,000. Most recently, on May 12, 2009, Council increased the value threshold of the CAO for awarding tenders from \$100,000 to \$500,000.

DISCUSSION

While the Procurement Policy provides a solid framework guiding procurement practices and compares favourably with policy of other municipalities, it could benefit from an update.

Based upon best practice of municipalities across Canada and a review of existing procurement practices, the following areas of revisions to the Procurement Policy are recommended:

A. Increased Value Thresholds

Contract Award

Under the current HRM Procurement Policy, the CAO's authority to award contracts is permitted when a Request for Tender/ Request for Proposal meets certain pre-approved conditions. Any award not meeting these conditions, such as an over-expenditure in budget, requires Council approval. This is consistent with other municipality's reviewed where the following main conditions exist.

- The purchase must be within the approved budget
- The purchase must be made through a public procurement process conforming to policy
- The award is made to the lowest cost Request for Tender meeting specifications (or highest revenue) or the highest ranking proponent for a Request for Proposal.

In some municipalities (such as Cape Breton Regional Municipality, Calgary, Ottawa, Mississauga) the CAO awards all contracts meeting these pre-approved conditions. In other municipalities an upper dollar limit is also a condition. These limits range from \$20 Million in Toronto to \$50,000 in Montreal, St. John's and Moncton. The current HRM policy limit of \$500,000 for contracts is somewhat low compared to other municipalities surveyed as identified in the attached Table 1. Of the 26 municipalities polled, 15 of the 26 or 57.7percent have higher dollar limit than HRM. Prior to May 12 when the award limit for tenders was \$100,000, 19 out of the 26 or 73 percent have higher dollar thresholds than HRM.

During the review of best practice, it was noted that municipalities do not consistently differentiate award limits by procurement method such as Request for Tender or Request for Proposal. Of the 26 municipalities surveyed only 3 were observed to have lower thresholds for RFP's in comparison to tenders.

In considering a revision to the current CAO signing authority for contracts, staff has reviewed the awards made by the CAO during the last calendar year.

Request for Tender:

In 2008, 169 tenders over \$50,000 were formally awarded by HRM with a total value of \$78,097,789. The number of tenders and the corresponding tender values are shown for specified contract threshold values as summarized in the following table:

Contract Value Threshold	Number of Tenders (Cumulative)	Percent of Total # of Tenders (Cumulative)	Percent of Total Value of Tenders (Cumulative)	Value of Tenders (Cumulative)
Interim Award	43	25.4	40.0	\$31,237,419
\$100,000	90	53.3	48.0	\$37,536,728
\$500,000	146	86.4	64.0	\$50,028,492
\$ 1 Million	161	95.3	77.0	\$60,143,654
Over \$1 Million	169	100.0	100.0	\$78,097,789

With the current limit of \$ 500,000, Council would have awarded 23 tenders (13.6 percent of the total number of tenders) with a value of \$ 28,069,297 (36 percent of the total value of the tenders awarded). Staff believe that this limit optimizes the balance between the number of tenders and those tenders with significant value awarded by Council.

Request for Proposal:

Staff has also considered the award of Request for Proposals made by the CAO over the last calendar year. In 2008, 38 RFP's over \$50,000 were formally awarded by HRM with a total value of \$84,371,354. The number of RFP's and the corresponding RFP values are shown for specified contract threshold values as summarized in the following table:

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Contract Value Threshold	Number of RFP's (Cumulative)	Percent of Total # of RFP's (Cumulative)	Percent of Total Value of RFP's (Cumulative)	Value of RFP's (Cumulative)
Interim Award	8	21.0	4.2	\$3,614,825
\$100,000	23	60.4	7.8	\$6,597,876
\$250,000	28	73.7	8.5	\$7,229,217
\$500,000	34	89.5	11.0	\$9,300,324
\$1 Million	35	92.1	11.7	\$9,803,594
Over \$1 Million	38	100.0	100	\$84,371,354

With a limit of \$500,000 Council would have awarded 4 RFP's (10.5 percent of the total number of RFP's) with a value of \$ 75,071,030 or 89 percent of the total value of RFP's awarded. This appears to represent a good balance between the number of RFP's and the value of those RFP's with significant value awarded by Council.

Sole Source Purchases:

Sole source awards are not subject to the same rigour as the public procurement process and, therefore, a lower award condition is often established for those awards. In 2008, Council awarded 4 sole source purchases valued at \$454,844 based on the current threshold limit of \$50,000 for the CAO. The value of the individual Council awards ranged from \$56,471 to \$145,230. These are comparatively low value awards. It would not appear to be unreasonable to increase the threshold for the award of sole source purchase for the CAO to \$100,000 being mindful that the policy has not been updated since amalgamation.

Based on these results, staff is proposing CAO limits to award contracts as follows:

- \$500,000 for the purchase of goods, equipment, services, and construction by Request for Tender
- \$500,000 for the purchase of goods, equipment, services and construction by Request for Proposal
- \$100,000 for sole source purchases.

The same pre-approved conditions would apply.

Staff is of the opinion that these revised value thresholds strike an appropriate balance between the efficient use of Halifax Regional Council time and the value and type of the contract award.

It is important to note that the revised value thresholds proposed by staff are generally more stringent than those applied during the effective period of the Interim Award Policy approved by

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Council in June 2008. In the Interim Award Policy there is no value limit to the contracts awarded by the CAO for tenders and RFP's provided the same main conditions exist (ie. adequate funding, etc.).

Further, the Compliance and Operational Review of Procurement and Accounts Payable conducted by Business Systems and Control, concluded that the existing Procurement Policy appears to have the appropriate checks and balances and no apparent material misuse of the policy was found. The review recommended that there be no limit to the CAO's authority to award where the award is to the lowest priced evaluated or highest ranking bid.

The table below summarizes the staff recommendation for the increase of contract award limits in comparison to past and current award limits for the CAO.

Awards of Contract by the CAO or delegate:

Contract Value Threshold	Number of Contracts (Cumulative)	Percent of Total # of Contracts (Cumulative)	Percent of Total Value of Contracts (Cumulative)	Value of Contracts (Cumulative)
\$100,000 (Pre- May 12, 2009)	113	53.5	27.1	\$44,134,604
\$500,000 (tenders) (Post-May 12, 2009)	169	80.0	34.8	\$56,626,368
Staff Recommendation *	181	85.8	36.5	\$59,385,287
Total	211	100.0	100.00	\$162,923,987

* Recommended threshold: \$500,000 - Tenders, \$500,000 - RFP's, \$100,000 - Sole Source.

Reporting:

With revised value thresholds for the award of contracts by the CAO, Councillors will have access to detailed summary reports on an ongoing basis with individual award reports being made readily accessible. Detailed summary reports will also be communicated to Council on a quarterly basis.

Formal (Public) Request for Submission

The current policy provides for formal methods of procurement including Request for Tenders and Request for Proposals for purchases of \$50,000 or greater. These formal methods of procurement include a public opening of bids. A comparison with other municipalities suggests that a threshold of \$100,000 is more common, particularly for tenders where the requirements are

clear and well defined and less formal methods such as Request for Quotations are acceptable. Given the subjectivity inherent in Request for Proposal, staff is of the opinion that it is more appropriate to retain the \$ 50,000 value threshold for Request for Proposals but increase the threshold for Request for Tenders to \$100,000. In line with this recommendation, it is appropriate to increase the spending authorization of the Directors from \$50,000 to \$100,000 for tenders. This is consistent with best practice.

B. New Provisions

The revised policy attached as Attachment “A” provides for guidelines for unsolicited proposals (Appendix C to the policy) and a vendor complaint procedure (Appendix D to the policy). These are based on best practice and remove any ambiguity of how these issues should be addressed.

C. New Environment

The revised policy incorporates the new reality for procurement as it has evolved since the policy was originally adopted at amalgamation. To summarise, these realities include the following:

- A guiding principle that references the promotion of procurement processes and decisions that are consistent with the strategic goals and objectives of the Municipality
- Clarity on the application of the policy to the Agencies, Boards and Commissions (Appendix A to the policy) and the exemptions to the policy (Appendix B to the policy)
- Responsibilities of Procurement and the Business Units
- Vendor’s engagement of the procurement web page which allows for the elimination of the mandatory requirement to advertise Formal Request for Submissions in excess of \$50,000 in a local newspaper. HRM currently spends approximately \$100,000 on purchasing advertisements in the Chronicle Herald with no noticeable improvement in market exposure. This could be reduced by up to \$80,000 if advertisements are used selectively
- Use of additional methods of procurement including Request for Information, Request for Expression of Interest and Request for Qualification
- A clearer list of situations that describe sole/single source purchases in keeping with those provided by the Agreement on Internal Trade and Atlantic Procurement Agreement
- Annual adoption of the Interim Award Policy by Council for the summer recess, and, more recently, for periods when Council is meeting less frequently.

The revised policy reflects and embraces these new realities.

D. Sustainability

Best practice supports incorporating sustainability into procurement policy. Municipalities including Calgary, Vancouver, Toronto, Ottawa and Hamilton have adopted sustainable procurement policy in one form or another over the last few years. The approval of the Province of Nova Scotia's Sustainable Procurement Policy is imminent.

The revised procurement policy incorporates two key elements of sustainable procurement, life cycle costing and the required consideration of economic, environmental and social factors in procurement processes and decisions, both are outlined as guiding principles. Sustainable procurement is still an emerging trend and requires significant dedicated staff resources and commitment. The revisions to the policy embrace sustainable procurement.

Recommendations of Business Systems and Control

The Compliance and Operational Review of Procurement and Accounts Payable completed by Business Systems and Control identified a number of areas where improvements could be made and efficiencies and accountabilities strengthened in the Procurement Policy. The proposed amendments to the Procurement Policy are consistent with the recommendations of Business Systems and Control as confirmed by the attached memo identified as Attachment "B".

BUDGET IMPLICATIONS

Overall, the Procurement Policy provides for:

- a. A direction for the expenditure of funds to complete the programs approved by Regional Council in the annual Operating and Capital Budget
- b. The most cost efficient and cost effective methods to purchase and dispose of goods, services and construction for the operations of Halifax Regional Municipality
- c. The total cost of acquisition to be considered not only the lowest invoice price.
- d. Procurement methods that are to encourage competitive bidding.

The application of these principles will produce best value for the dollars spent on goods, services and construction.

The continued implementation of specific sustainable initiatives in keeping with the guiding principle of sustainability embodied in the Procurement Policy may impact operating budgets. Impacts will be analysed on a case by case basis.

If Council approves elimination of the requirement for advertising in local papers and the move to advertising on the internet approximately \$80,000 will be saved annually in the capital budgets of the applicable projects.

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

Council could select alternate CAO award limits including increasing the threshold for tenders to \$1,000,000 or no limit as recommended by Business Systems and Control.

ATTACHMENTS

Table 1 - Samples of Other Cities (Contract Award Limits)
Attachment "A" - Administrative Order # 35
Attachment "B" - BSC Recommendation Confirmation Memo

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.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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Report Approved by:


Catherine Sanderson, Senior Financial Manager, Finance

Report Approved by:


Cathie O'Toole, CGA, Director, Finance

Table 1 - Sample of Other Cities (November 2008)

CITY/MUNICIPALITY/REGION	CONFIDENTIALITY	ACCESSIBILITY	ENVIRONMENTAL	TRANSPORTATION	INFRASTRUCTURE	QUALITY OF LIFE	PERFORMANCE
City of Toronto (pop. 2,503,281)		1					
City of Montreal (pop. 1,620,693)							1
City of Calgary (pop.1,079,310)	1						
Reg. York (pop. 892,712)	1						
City of Ottawa (pop. 812,130)	1						
City of Edmonton (pop.730,372)		1					
City of Mississauga (pop. 668,460)	1						
City of Winnipeg (pop.633,460)		1					
City of Vancouver (pop.578,041)					1		
Durham Region (pop.561,258)	1						
City of Hamilton (pop.504,559)					1		
City of Brampton (pop.433,806)		1					
HRM - Proposed			0				
HRM - Current (pop.372,679)			0				
City of London (pop.352,395)						1	
City of Kitchener (pop.204,668)						1	
Town of Oakville (pop.165,613)	1						
City of Burlington (pop.164,415)		1					
City of Greater Sudbury (pop. 157,857)	1						
City of Oshawa (pop. 141,590)				1			
City of Barrie (pop.128,430)	1						
City of Guelph (pop. 125,872)		1					
City of Cambridge (pop.120,371)						1	
City of Thunder Bay (pop.109,140)					1		
Mun. Cape Breton (pop.102,250)	1						
City of St. John's (pop.100,646)							1
City of Waterloo (pop.97,476)						1	
City of Moncton (pop.64,128)							1
Halifax Regional Water Commission*	1						
Occurrences	9	6	1	3	4	3	
Total Surveyed	26	26	26	26	26	26	
Percent	34.6	23.1	3.9	11.5	15.4	11.5	

* Excluded from the analysis

ATTACHMENT "A"

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 to ensure the most cost effective and cost efficient methods are used to purchase goods, services and construction for the Regional Municipality in the manner 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 Capital Budget.
 - (2) Procurement policy and procedures shall provide the most cost efficient and cost effective methods to purchase and dispose of all goods, service and construction for operations of Halifax Regional Municipality.
 - (3) The procurement process shall be open, fair, and consistent.
 - (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 and/or construction.

(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) references.

(7) Halifax Regional Municipality shall 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.

(8) Halifax Regional Municipality shall include consideration of environmental, economic and social factors in procurement processes and decisions.

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

Definitions

3. (1) Bid - refers to a competitive bid received from either a Request for Quotation, Request for Tender, Two Phase Bid or Request for Proposal.
- (2) Procurement Section - refers to the Procurement Section of the Finance Business Unit.
- (3) Business Unit - refers to the user department requisitioning goods, service or construction
- (4) 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.

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, identified in Appendix A, unless otherwise governed by a Management Agreement or in cases where a separate approved Procurement Policy is in place.
- (2) The procurement of goods and services listed in Appendix B 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 and construction 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 work with other orders 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 (CAO) has the authority to award or purchase all goods, services and construction 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, 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 Halifax Regional Municipality 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.

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 stock.

(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 or goods, services and construction for Halifax Regional Municipality:

(a) Up to \$1,000

The acquisition of goods, services and construction 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) More than \$1,000 but less than \$10,000

For the acquisition of goods, services and construction 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 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 capital

budget. These opportunities shall be posted on the Halifax Regional Municipality website whenever possible.

(c) More than \$10,000 but less than \$50,000*

For the acquisition of goods, services and construction with a value of at least \$10,000 but less than \$ 50,000* at least three written quotations shall be solicited by the Procurement Section in consultation with the Business Unit.

Procurement shall post these opportunities on the Halifax Regional Municipality website. The requisition shall be authorized by the Director (or designate) of the Business Unit and the funds are to be clearly identified in the approved or capital budget.

* \$100,000 for Request for Tender

(d) \$ 50,000* or greater

For the acquisition of goods, services and construction 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 Halifax Regional Municipality website.

There shall be a public opening at a designated date and time for Request for Tenders and Request for Proposals in this range. Request for Tender shall be posted and acknowledged. A list of submissions (excluding pricing) shall be posted and acknowledged for Request for Proposal. 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 capital budget.

*\$100,000 for Request for Tender

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 commits 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 award of Standing Offers are as developed by the CAO

(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, equipment, and construction. 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. Where the lowest total cost is not the sole determining factor on which the award will be made, the tender documents shall 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 a formal 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 Proposal are compared to each other to assess the best proposal. A Request for Proposal must include an evaluation criteria that will be used to score the respondents' 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 Procurement 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, 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 and construction 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 or construction and time constraints.

(7) Request for Information: A Request for Information is an invitation to suppliers of goods, services and construction 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 or construction 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 and/or construction 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 or construction.
- (c) Efforts at breaking identical bids have previously been unsuccessful and the same goods, services or construction 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) **Sole Source/Single Source Purchases:** The terms and conditions of a sole source/single source purchase shall be negotiated. A sole source/single source purchase occurs:

- (a) To ensure compatibility with existing products, facilities or service, 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, for technical reasons, there is an absence of competition and the goods or services can be supplied 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 a property by a contractor according to the 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 procurement of a good or service for testing or trial use.
- (i) For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
- (j) For the procurement of original works of art.
- (k) For the procurement of goods intended for resale to the public.
- (l) Where the Municipality has a rental contract with a purchase option and such purchase option could be beneficial to the Municipality.
- (m) 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, such a purchase may be made as a single source purchase.

(n) Where items are offered by sale by tender, auction or negotiation such purchase will be deemed to be a single source purchase and the CAO may authorize the submission of a bid or the conduct of negotiations where the CAO determines the purchase to be clearly in the best interest of Halifax Regional Municipality.

(o) Where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of such 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. Purchases of this nature must be approved by the CAO

(p) Where compliance with an open tendering process may interfere with the Municipality's ability to maintain security or order or to protect human, animal or plant life or health.

(12) 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 a 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 receipt of unacceptable or uncompetitive bids; or in the absence of a receipt of any bids in response to a call for bids.

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 writing, to the next level of authority with a copy to the Manager of Procurement.

(13) Unsolicited Proposals: An Unsolicited Proposal is an offer made by a vendor outside of a competitive process. Such proposals shall be considered in accordance with the guidelines outlined in Appendix C.

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 \$100,000* 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.

* \$ 50,000 for Request for Proposal

(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, or construction by Request for Tender.
- (f) Where the award does not exceed \$500,000 for the purchase for goods, equipment, services, or construction by Request for Proposal.
- (g) Where the purchase is a sole source/single source purchase not to exceed \$100,000.
- (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 and August) and for occasions when a regular Regional Council meeting has been cancelled or the regular schedule creates more than eight (8) business days between Council meetings, 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 purchase is a sole source /single source not to exceed \$100,000.
- (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 \$100,000* 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 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 , and the budgetary provision.

* \$50,000 for Request for Proposal

Vendor Performance

10. (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 or construction.
- (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 Complaints

11. 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 as outlined in Appendix D.

Disposal of Surplus Equipment

12. (1) The Procurement Section shall accumulate surplus assets from the Business Units. Items that are likely to be of use to other Business Units of Halifax Regional Municipality can be transferred, after notice is given to all Business Units of the availability of these items.

(2) Surplus assets over the value of \$100,000 shall be disposed of by Request for Tender and contract for disposal of such assets shall be awarded by the CAO.

(3) In other cases surplus assets shall be disposed of by either Request for Tender, Request for Quotation or auction as reasonably practical in the circumstances.

(4) The CAO 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

13. (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, sole/single source, or emergency purchases 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

14. 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. (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 Qualification for legal services shall be issued, at a minimum, every three (3) years.

- (2) Professional Services (i.e. Architectural, Engineering, Surveying Service, Real Estate Service) -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.

Consultants shall be selected, by project, based upon qualifications, experience, services offered, past performance, proposed fees, and other relevant considerations. A Request for Qualification for these services shall be issued, at a minimum, every (3) years. A Request for Proposal shall be issued for required services over the value of \$50,000.

- (3) Banking Services - General Banking services shall be acquired by Request for Proposal 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 Request for Proposal 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 shall recommend the selection of an Auditor to Council. Annual renewal of the contract for Audit services shall be made by the Audit Committee.

Tie Bids

15. 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 day of , 2009

Mayor

Municipal Clerk

I, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above- noted Administrative Order was passed at a meeting of Halifax Regional Municipality held on , 2009.

Clerk

**Agencies, Boards & Commissions
Halifax Regional Municipality**

Cole Harbour Place
Dartmouth Sportsplex
Halifax Forum Community Association
Halifax Metro Centre
Sackville Sports Stadium
Alderney Landing
Bicentennial Theatre
Centennial Pool Association
Carol's Corner School
Crichton Community Centre
Cole Harbour Outdoor Pool
Dartmouth Non-Profit Housing
Dartmouth North Community Centre
East Preston Recreation Centre
Halifax Non-Profit Housing
Lake Echo Community Centre
Metropolitan Region Housing Authority
Needham Preschool
North Woodside Community Centre
St. Margarets Arena Association
Halifax Public Libraries

**Procurement Policy
List of Exemptions**

1. Petty Cash Items:

2. Training and Education:

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

3. Refundable Employee/Other Expenses:

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

4. 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, leasehold interest, easements, encroachments, licences
Licenses (vehicles, elevator, etc.)
Charges to and from other government bodies or Crown corporations
Bank Charges and Underwriting Services where covered by agreements

5. Professional and Special Services:

Committee Fees
Witness Fees
Court Reporter's Fees
Honoraria
Arbitrators
Discoveries (Legal)
Legal Settlements
Audits
Performing Artists

6. Utilities:

Water & Sewage Charges
Power
Telephones
Cable Television

7. Miscellaneous (under \$1,000 only)

Printing and copying under \$1,000
Custom invoices
Taxi
Courier
Stationary (Standing Offers should be used where appropriate)
Catering
Groceries
Small incidentals appropriate to purchase on the HRM Purchasing Card.
Postage

8. Miscellaneous

Print, Television and Radio media advertising accounts

Guidelines for Unsolicited Proposals

Purpose:

To define guidelines for the handling of unsolicited proposals.

Policy:

Unsolicited proposals shall not be allowed to circumvent Halifax Regional Municipality's procurement process. An unsolicited proposal shall not be considered if:

- a. It resembles a current or upcoming competitive procurement that has or will be requested.
- b. It requires substantial assistance from Halifax Regional Municipality to complete the proposal.
- c. The goods or services are readily available from other sources.
- d. It is not deemed to be of sufficient value to the Halifax Regional Municipality.

To facilitate review and/or evaluation, the unsolicited proposal shall be written and contain the following minimum information, as applicable:

- a. Vendor Profile
- b. Proposal Overview
- c. Objectives and Outcomes
- d. Basic Requirements and Project Approach
- e. Deliverables and Work Plan
- f. Respective Responsibilities
- g. Pricing and Benefit/Risk Sharing
- h. Proposed Contractual Terms.

Each party, Halifax Regional Municipality and the proponent shall bear their own costs associated with the preparation, evaluation and negotiation of unsolicited proposals.

Procedure:

Unsolicited proposals received by the Halifax Regional Municipality shall be reviewed jointly by the Manager of Procurement and the Director of the Business Unit to determine if the proposal meets the above criteria and there is sufficient uniqueness, interest and benefit to the proposal to proceed with a further review. A recommendation shall be formulated and the proponent advised accordingly.

If it is determined that the proposal warrants further review, the Manager of Procurement and the Director of the Business Unit shall further consider the proposal obtaining additional information from the proponent as required. The proponent shall be notified of Halifax Regional Municipality's terms and conditions for the type of goods or services under consideration and

obtain acknowledgment of the proponent's willingness to comply with same. Discussions may take place if clarification or expansion of the proposal is required. A recommendation shall be formulated and award made in accordance with the Procurement Policy for a sole/single source purchase.

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 vendor regarding a bid solicitation, contract award, or proposed contract for goods, services or construction.

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

Complaints shall be submitted during the competitive process and up to thirty (30) business days after the contract award is posted.

Complaints may be resolved, dismissed or withdrawn*. 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.

The Manager of Procurement shall respond formally to vendor complaints within 21 working days.

- * 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.

MEMORANDUM

To: Cathie O'Toole, Director of Finance / CFO

CC: Cathie Osborne, Manager, Business Systems and Control

From: David Marr, Business Consultant, Business Systems & Control

Date: Wednesday, June 24, 2009

Subject: Review - Amendments to Procurement Policy

During the course of the Compliance and Operational Review Procurement and Accounts Payable, dated March 2, 2009¹, Business Systems and Control identified a number of areas where improvements could be made and efficiencies and accountabilities strengthened relating to the existing Procurement Policy. These five areas are summarized below.

Ref #	Recommendation	Addressed in Proposed Policy
1.3.11	Administrative Order Number 35 should be amended to include a section acknowledging the List of Exceptions as a valid procurement procedure within the overall policy.	Yes
1.3.12	The procurement policy should accurately reflect the spirit of its acceptable use expected from agencies, boards, and commissions, listing the individual ABCs and their inclusion or exclusion under the policy.	Yes
1.4.1	It is recommended that the use of council and CAO award reports be reserved for situations where the award is not to the lowest evaluated or highest ranking bid. Administrative Order Number 35 appears to have appropriate checks and balances, and no apparent material misuse of the policy has been found. A summary report of awards should be included with the weekly council package to keep Halifax Regional Council and the CAO informed of purchasing approvals. Should the council require additional information, a separate Council report can be provided.	Yes
1.4.2	A quarterly report to Halifax Regional Council, through the CAO, of awards over the value of \$50,000 and approved as the lowest evaluated or highest ranking bid should be prepared and required as part of the regular Council Agenda.	Yes
1.12.3	The procurement policy should be modified to allow for environmental disposal of assets.	Yes

The changes being put forward by Finance with the proposed policy - surrounding the areas mentioned above, are consistent with the intention and spirit of the review's recommendations.

Regards,



David Marr
Business Consultant
Business Systems & Control

¹ Tabled with the Audit Committee April 15, 2009