



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

*RE: 11.1*

**Halifax Regional Council  
September 13, 2005**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

A handwritten signature in cursive script that reads "Dale MacLennan".

Dale MacLennan, Director of Financial Services

**DATE:** September 7, 2005

**SUBJECT:** **Notice of Motion - Councillor Walker - Amendment to Administrative Order 35 - Respecting Procurement Policy**

---

## INFORMATION REPORT

### ORIGIN

Notice of Motion by Councillor Walker September 6, 2005 to amend Administrative Order 35.

### BACKGROUND

Due to the notice of motion placed before Halifax Regional Council by Councillor Walker, staff wished to provide some background on this issue for council's consideration. During the May 18, 2004 meeting of Halifax Regional Council, the matter of the award of contracts by the CAO was discussed and approved. That report was brought forward in response to a request by council to reduce the number of tenders that are awarded at Halifax Regional Council on a regular basis.

I have attached a copy of this report as it discussed the reasons for the new approval limits and relevant background material on the best practices of other municipalities.

## **DISCUSSION**

The May 18, 2004 report, Approval of Tenders- Authorizations, provided the background for Halifax Regional Council to consider when changing the limits for staff awards. The objective was to remove a number of tender awards from Halifax Regional Council agenda and to allow staff to more efficiently deal with lower value awards. The additional benefit was that contracts can be awarded sooner and staff time is reduced.

The current CAO approval limits are based upon a number of conditions that are listed in the procurement policy. It is designed so that the straightforward awards could be dealt with by staff while awards that do not meet those conditions are dealt with by Halifax Regional Council. Over the last six months tenders for lower values were approved by Halifax Regional Council as they required additional funding, transfer of funding from reserves, or approval of an increase in scope.

The present conditions for an award are listed in Administration order 35 which states that:

The CAO, or his designate, may approve the award of contracts under the following conditions:

- (a) Where the funds and program have been approved by Halifax Regional Council as part of the annual business planning and budget process and the expenditure will not result in an over-expenditure of the entire budget.
- (b) Where the purchase was the result of a public procurement process conforming to the HRM procurement policy.
- (c) Where the tender is awarded to a supplier with the lowest cost, or highest revenue, meeting specifications.
- (d) Where the award of a Request for Proposal is made to the highest scoring proponent based upon evaluation criteria within the Request for Proposal.
- (e) Where the award does not exceed \$500,000.00 dollars for the purchase of goods, equipment, services, or construction.
- (f) Where the award does not exceed \$250,000.00 dollars for consulting services.
- (g) Where the purchase is a sole source purchase not to exceed \$50,000.00.
- (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.

For the benefit of Council, staff has forwarded a list of these awards, and a listing of tenders that are being advertised, in the weekly councillor's information package. This provides councillors an opportunity to ask questions, if they wish, earlier in the process.

The current Procurement Policy strikes a balance of the efficient use of Halifax Regional Council time and the value of the awards. This year, for the first eight months, there have been 137 tenders or RFP's awarded. If you compare these figures with the previous report, this is 160% more than

what was issued in 2002. These tenders had a combined value of \$63.7 million, more than double the 2002 figure in the earlier report. As predicted the volume of work has increased considerably.

Under the present policy Halifax Regional Council approved \$45.4 million of those purchases in thirty-eight tenders. This is because 71% percent of the total value was awarded in 28% of the awards.

If the motion put forward is approved, Halifax Regional Council will have to approve 98 more tenders per year and will approve 96% of the total tendered work. Halifax Regional Council will have more tenders on their agenda than they approved under the previous policy that prompted the request for a change. It will also increase the time to award a contract and will require more staff resource time to prepare and attend meetings of Halifax Regional Council.

HRM has seen significant increases in prices in the cost of our construction projects over the last year. Due to concern over these rising costs, staff has met with some of our major contractors to determine if there are strategies that HRM can utilize that would improve our pricing. Although fuel, and steel prices have had an effect on pricing, as well as a very tight labour market, a faster turnaround on awards and tendering early in the year (December onward) was on the top of the list of the comments that have been repeated to us. There are a number of steps from tender closing to the start of construction. Once a construction tender has closed, and staff has reviewed the responses, a CAO award report is prepared and approved. Staff then holds a preconstruction meeting with the contractor and the contractor has to provide documents (insurance, bonds, safety plan etc.) and sign the contract. Then they marshal their resources to start the contract. Council approval, if required, increases this award period by at least two to four weeks depending upon the closing date and the deadline for council reports.

### **BUDGET IMPLICATIONS**

Any increase in the number of reports required to be approved by Halifax Regional Council will have an effect on Staff time. As the greatest number of these awards are construction related, the added time required by engineering staff to prepare reports and attend meetings of Halifax Regional Council will reduce the capacity to do other engineering work.

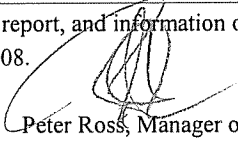
### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

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.

**ATTACHMENTS**

**Appendix "A"** - Council Report May 18, 2004 - Approval of Tenders - Authorization


Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

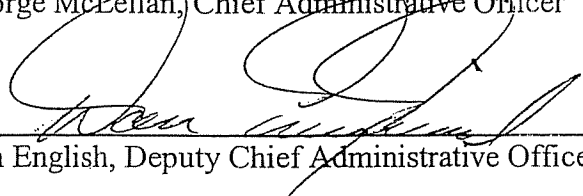
Report Prepared by:  Peter Ross, Manager of Procurement at 490-6499

**Halifax Regional Council**  
**May 18, 2004**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
George McLellan, Chief Administrative Officer

  
\_\_\_\_\_  
Dan English, Deputy Chief Administrative Officer

**DATE:** April 26, 2004

**SUBJECT:** Approval of Tenders - Authorization

**ORIGIN**

This report originates from a request of council at the meeting of June 10, 2003 (item 0) to consider increasing the authority of the Chief Administrative Officer relative to tender awards.

**RECOMMENDATION**

It is recommended that Regional Council approve a change in Procurement Policy Clause 8 - Award of Contracts, paragraph 8.4 and 8.5 to read as outlined in Appendix "A" and direct staff to arrange for the formal adoption of the Procurement Policy as on Administrative Order pursuant to the *Municipal Government Act*.

## **BACKGROUND**

There have been various comments made by Regional Councillors with regards to the number of tenders awarded by Regional Council including the possibility that the CAO should be delegated a higher level of signing authority which would negate the need for Council approval on tender awards providing certain criteria is met.

The powers of the HRM are derived from the Municipal Government Act wherein the Responsibilities of the Chief Administrative Officer, amongst other things, are:

*“31 (1) The chief administrative officer shall*  
*(a) coordinate and direct the preparation of plans and programs to be submitted to the council for the construction, rehabilitation and maintenance of all municipal property and facilities;*  
*(b) ensure that the annual budget is prepared and submitted to the council;*  
*(c) be responsible for the administration of the budget after adoption;....”*

*“(2) The chief administrative officer may”*

*“(d) subject to policies adopted by the council*

*(i) make or authorize expenditures, and enter into contracts on behalf of the municipality, for anything required for the municipality where the amount of the expenditure is budgeted or within the amount determined by the council by policy, and may delegate this authority to employees of the municipality,*  
*(ii) sell personal property belonging to the municipality that, in the opinion of the chief administrative officer, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed by, the municipality, and may delegate this authority to employees of the municipality,*  
*(iii) personally, or by an agent, negotiate and execute leases of real property owned by the municipality that are for a term not exceeding one year, including renewals,*  
*...”*

The *Municipal Government Act* therefore provides broad authority for the CAO in completing the goals and objectives of the annual budget.

The present HRM Procurement Policy, approved in 1996, states that the CAO, or designate, may award contracts except in the following circumstances when Halifax Regional Council must approve the award:

Policy # 8.4 - Halifax Regional Council would award contracts:

- When the procurement will result in an over expenditure of the entire budget;
- Where the award is the subject of dispute best dealt with by Council;
- That Council has requested a report prior to award
- For the contracting of Audit Services
- For leases of real property owned by the Regional Municipality that are, either directly, or by right of renewal, for a term exceeding one year;
- For Non-Profit organizations as a sole source purchase;
- When recommended as a result of a public request for submission. (More than \$50,000).

The last condition was added by Regional Council in 1996 during the discussion of the policy to correspond to section 6 -Purchasing Process, which states that contracts over the value of \$50,000 will be advertised. This had the intended result that Regional Council would be required to award tenders over the value of \$50,000 dollars.

Regional Council has also historically authorized the CAO through the Interim Award Policy to approve tenders during the summer break, with the following conditions:

- The tender was awarded to the lowest responsible bidder meeting specifications and the award was not a sole source;
- The award of a call for proposal is being made where a standard procurement process has been followed and the contract is awarded to the best overall submission;
- Where the funds and program have been approved by Council in the budget;
- A report on the awards made during this period is issued to Council.

## **DISCUSSION**

Based upon the request by Council, and considering the foregoing, staff has researched the value and number of tenders awarded by Council. Staff also researched best practices of other Municipalities in order to develop a recommendation on a revised set of conditions when, if met, could be awarded by the CAO.

Within the current HRM Procurement Policy, the authority to award contracts is permitted when a tender award meets certain pre-approved conditions. Any award not meeting these conditions, such as an over-expenditure in budget, requires Council approval.

In all municipalities reviewed there are the following main conditions.

- The purchase must be within the approved budget.
- The purchase must be made through a public procurement process conforming to policy.
- The award is to be made to the lowest cost 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, City of Winnipeg, City of Mississauga) the CAO awards all contracts that meet these pre-approved conditions. In other municipalities an upper dollar limit is also a condition. These amounts range from \$5 million dollars in Toronto to \$50,000 under current HRM Policy. A listing of municipalities, in order of population, is attached as Appendix "B". The current HRM Policy relative to the \$50,000 dollar award limit is low compared to other municipalities surveyed. Based on the survey results as listed in Appendix "B", staff is proposing changes as outlined in Appendix A.

In considering a revision to the current CAO signing authority for tenders, staff has reviewed the awards made by Regional Council as to their frequency and value. In the years 2001 and 2002 Regional Council awarded approximately 90 tenders in each year. In the year 2002, 81% of the tenders approved by Regional Council were less than \$500,000 and represents 44% of the total value of the tenders.

**Quantity vs. Dollar Value Comparison**

Year	# of Tenders	Total Dollar value Awarded	Percent of the number of tenders below \$500,000	% of Total Dollar value	Percent of the number of tenders below \$250,000	% of Total Dollar value
1999	66	\$12,146,417.	97%	84%	83%	59%
2000	95	\$22,376,000.	94%	71%	70%	37%
2001	91	\$31,795,000.	81%	52%	53%	18%
2002	87	\$31,801,000.	81%	44%	57%	20%

In recommending revised award conditions, the type of contract was also considered. One of the goals in establishing a new award limit is to create the conditions whereby the CAO may award a greater number of tenders while significant awards would continue to be approved by Regional Council. With purchases of construction services, equipment, trucking, line painting etc., the normal purchase is of a significant value. A higher value condition is therefore recommended for those awards. The normal value of Consulting Service Contracts is much lower. On the basis of this, a lower value condition is recommended for these types of awards. Sole Source awards are not subject to the same rigour as the public procurement process and so a lower award condition is recommended for those awards.



There are price agreements for such things as parts, and maintenance items that are created on an “as required basis” with no firm commitments to purchase. These supply contracts set a price for goods and services that we purchase on an “as required basis”. These contracts usually last two to five years. These agreements will continue to be set up by staff under the authorization of the CAO.

In consideration of the comparison of HRM to other similar municipalities: the number and value of awards by Regional Council; and the type of awards, staff recommend that clauses 8.6 and 8.7 of the Procurement Policy be changed to read as outlined listed in Appendix “A”.

The revised tender award limit is proposed to be \$500,000 for the purchase of goods, equipment, services, or construction, as this is in line with other Municipalities of similar size. The award limit for consulting services is proposed to be \$250,000 for the reasons given above. The award condition for Sole Source purchases is recommended at \$50,000.

The Procurement Policy is not currently in the form of an Administrative Order as is required by the *Municipal Government Act*. If these proposed changes are approved, the revised Procurement Policy will be brought back to Regional Council in the form of an Administrative Order.

### **BUDGET IMPLICATIONS**

There are no budget implications for this report however the staff time required to obtain approval of an award by council can be three to four weeks and, in those areas that produce a number of reports, increased productivity would result from a more efficient process.

### **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**

1. Halifax Regional Council may choose to not approve any change and leave the current approval process in place. From our review of other municipalities, the current limit is very low for a municipality of the population of the Halifax Regional Municipality.
2. Halifax Regional Council may direct staff to return to Regional Council with revised recommendations based upon direction given by Regional Council.

**ATTACHMENTS**

Appendix "A" - Proposed change to Clause 8.4 and 8.5 of the Procurement Policy  
Appendix "B" - Samples of other Municipalities

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Peter Ross, Manager, Procurement 490-6499

Report Approved by:

  
Dale MacLennan, Director, Financial Services 490-6308

## Appendix "A"

Proposed Change to Clause 8 - Award of Contracts, paragraph 8.4 and 8.5 of the Procurement Policy to read:

### 8. Award of Contracts

8.4 The CAO, or his designate, may approve the award of contracts under the following conditions:

- ▶ 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:
- ▶ Where the purchase was the result of a public procurement process conforming to the HRM procurement policy:
- ▶ Where the tender is awarded to a supplier with the lowest cost, or highest revenue, meeting specifications.
- ▶ Where the award of a Request for Proposal is made to the highest scoring proponent based upon evaluation criteria within the Request for Proposal.
- ▶ Where the award does not exceed \$500,000.00 dollars for the purchase of goods, equipment, services, or construction.
- ▶ Where the award does not exceed \$250,000.00 dollars for consulting services.
- ▶ Where the purchase is a sole source purchase not to exceed \$50,000.00.
- ▶ Where there is no legislative requirement to obtain Halifax Regional Council approval.
- ▶ Where the CAO does not decide that the award is a matter best dealt with by Halifax Regional Council.

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

Appendix "B" - Samples of other Cities

CITY/MUNICIPALITY/REGION	NO-LIMIT ON CONTRACTS MEETING CRITERIA	1 MILLION DOLLAR LIMIT OR MORE AND ALL OTHERS MEETING CRITERIA	\$500,000 DOLLAR LIMIT AND ALL OTHERS MEETING CRITERIA	\$250,000 DOLLAR LIMIT AND ALL OTHERS MEETING CRITERIA	\$100,000 DOLLAR LIMIT AND ALL OTHERS MEETING CRITERIA	\$50,000 DOLLAR LIMIT AND ALL OTHERS MEETING CRITERIA	
City of Toronto (pop. 2,481,494)		●					*Council 5 Mill and above, Standing Committee 2.5 Mill
City of Montreal (pop 1,039,534)					●		
City of Edmonton (pop. 937,845)			●				*Consultants awards of \$250,000, other awards-\$1 Million
City of Calgary (pop. 878,886)		●					
City of Ottawa (pop. 774,072)							*Award Limit is \$300,000
City of Winnipeg (pop. 671,274)		●					
City of Hamilton (pop. 662,401)				●			*Consultants appointments of \$250,000
City of Mississauga (pop. 612,925)		●					
City of Vancouver (pop. 545,671)				●			*Award Limit is \$75,000
City of London (pop. 432,000)				●			
City of Kitchener (pop. 414,284)					●		*Limit is \$1.5 million for Capital, and \$500,000 Others
Hfx. Reg. Mun.-Proposed			●	●			
Hfx. Reg. Mun.-Curr. (pop. 360,000)						●	
City of Brampton (pop. 325,428)					●		
Town of Oakville (pop. 144,738)		●					
Durham Region (pop. 141,000)				●			
City of Burlington (pop. 140,000)			●				
City of Oshawa (pop. 139,051)				●			
City of Thunder Bay (pop. 132,000)				●			
City of Barrie (pop. 120,000)		●					
City of Moncton (pop 117,727)						●	
Mun. of Cape Breton (pop. 112,000)		●					
City of Cambridge (pop. 111,100)					●		
City of Guelph (pop. 110,000)		●					
City of Waterloo (pop. 102,000)			●				