

Memo

May 27, 2020

To: His Worship, Mayor Michael Fougere and City Councillors

Re: Response to Enquiry – EN20-2 Procurement Policies

Administration is providing the following information in response to enquiry (EN20-2) filed at the City Council meeting on April 29, 2020.

- 1. In light of the economic hardship caused by COVID-19 on the provincial economy, does the City of Regina have the authority to give preference to Regina or Saskatchewan based companies to procure goods and services? If so, how do we exercise that authority in the RFP and procurement process?*

The Regina Administration Bylaw, No. 2003-69 (the “Bylaw”) defines the City of Regina’s authority and requirements for the purchase of goods, equipment and services. The Bylaw reflects and is in compliance with the legal requirements placed on municipalities as a result of Federal and Provincial legislation and trade agreements. Municipalities are legally bound to follow the legislation and trade agreements.

Purchases under \$75,000 are not governed by the trade agreements. Therefore, in the Bylaw the City established processes for non-standard procurements, which do not involve a public procurement process including using an invitational competitive process for purchases less than \$75,000. The City uses these processes when applicable.

Purchases over \$75,000 are governed by the trade agreements. The trade agreements require municipalities to publicly acquire goods, equipment and services through a public procurement process unless the nature of the purchase falls within one of the exceptions to public procurement.

As an example, the Canada Free Trade Agreement states that “A procuring entity shall not impose or consider, in the evacuation of tenders or the award of contracts, local content or other economic benefits criteria that are designed to favour (a) the goods or services of a particular Province or region, including those goods and services included in construction contracts; or (b) the suppliers of a particular Province or region of such goods or services”. The Canada Free Trade Agreement also states that “according a reference for local goods, services, or suppliers” is inconsistent with the trade agreement.

Procurements for emergency situations are an exception to the trade agreement's public procurement requirement. As a result, the City's Bylaw contains the emergency exception from the trade treaties for when "unforeseeable events have resulted in a situation where extreme urgency exists and the goods and services could not be obtained in time through an Open Competition". This emergency procurement exception allowed the City to buy pandemic supplies to support the safety of our employees and non-profit organizations in a timely manner.

- 2. What percentage of contracts procured by the City are with Saskatchewan-based companies?*

The City procured approximately \$285 million in goods and services in 2019. Approximately 92% or \$262 million of those goods and services were purchased from companies in Saskatchewan.

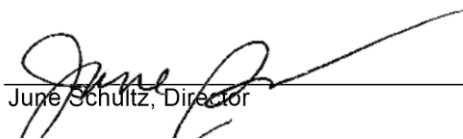
- 3. What would be the implications of privileging local companies in the procurement process?*

The City would not be in compliance with applicable legislation, trade agreements, and the City's Bylaw and policies.

Implications include potential trade challenges and financial penalties pursuant to the various trade agreements. As well, non-compliance with legislation, agreements, and City bylaws and policies could result in legal action taken against the City.

Respectfully submitted,

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June Schultz, Director

5/20/2020


Barry Lacey, Exec. Director, Financial Strategy & Sustainability

5/21/2020