



Purchasing Policy Bylaw Amendment

Date	February 1, 2023
To	Executive Committee
From	Financial Strategy & Sustainability
Service Area	Financial Services
Item No.	EX23-6

RECOMMENDATION

The Executive Committee recommends that City Council:

1. Approve the proposed changes to *The Regina Administration Bylaw*, Bylaw No. 2003-69, Schedule D and Schedule E (the “Bylaw”) as set out in Appendix A, including:
 - a. Changes to align with trade agreements such as the *New West Partnership Trade Agreement*, the *Canadian Free Trade Agreement*, and the *Canada-European Union (EU) Comprehensive Economic and Trade Agreement*;
 - b. Changes to align with leading practices in government procurement; and,
 - c. general housekeeping amendments.
2. Instruct the City Solicitor to prepare a bylaw to amend *The Regina Administration Bylaw*, Bylaw No. 2003-69, in the manner set out in Appendix A.
3. Approve these recommendations at its meeting on February 8, 2023.

ISSUE

The purpose of this report is to provide Executive Committee an update on proposed amendments to *The Regina Administration Bylaw* to allow for implementation of several improvements to improve

the efficiency and effectiveness of procurement process, as well as make several housekeeping amendments to the bylaw.

IMPACTS

Legal Impact

Updates to the Bylaw will be completed to integrate the amendments into Schedule D, which is known as the Purchasing Policy, and in Schedule E which is the delegation of signing authority schedule. All changes proposed are generally outlined in Appendix A – Proposed Amendments to *The Regina Administration Bylaw*.

Strategic Impact

The proposed amendments are in alignment with the City's 2022-25 Strategic Priority of Operational Excellence. The amendments promote more efficient and financially sustainable procurement practices.

There are no economic, accessibility, environmental, financial or other impacts.

OTHER OPTIONS

City Council could decide not to approve the recommended policy amendments as outlined in this report.

COMMUNICATIONS

As required in sections 101(2)(j) and 154 of *The Cities Act*, amendments to the Purchasing Policy require public notice. The City has provided public notice of the proposed amendments to the Bylaw in accordance with *The Public Notice Bylaw*, No. 2003-8.

DISCUSSION

Proposed Regina Administration Purchasing Policy Bylaw Amendments

Process and language changes to the Bylaw are recommended to improve the efficiency and effectiveness of procurement process, including several housekeeping amendments to streamline and provide further clarity in the bylaw, which are further detailed in Appendix A and summarized below.

The Bylaw is comprised of the main bylaw and a number of schedules. Schedule D to the Bylaw is known as the *Purchasing Policy* and guides the procurement of goods, equipment and services in accordance with applicable trade treaties and City processes. The Bylaw and the Purchasing Policy

govern the development of other related procurement processes, the Procurement Manual and Protocol.

Extensions to Multiple Year Contracts (Appendix A – point #1)

Currently, only the City Manager and Executive Directors have the authority to extend contracts beyond two (2) years in length (e.g., an approved contract with an initial term of two years with the option to extend the agreement through 3 one-year extension options, for a total contract term of up to five years requires Executive Director approval to exercise each of the one-year extensions). The proposed amendment allows the Director level authority to approve extensions to a contract, based on the approved maximum number of extensions and scope of the original contract. This will provide an efficient approval process to ensure contracts continue to move forward under the original scope.

Multiple Year Contracts

i) Maximum Contract Length (Appendix A – point #2)

At present, Section 22 (1)(b) sets a maximum five (5) year contract limit. The proposed amendment will allow Administration to approve contracts with a maximum ten (10) year contract limit. This change will allow for timeliness and efficient approval process to help ensure the City is getting best value using longer term contracts, as recommended in the Efficiency Review. The authority to approve multi-year contracts will remain unchanged and be limited to the City Manager or Executive Director, Financial Strategy and Sustainability and continue to require the contracts to include a clause that allows termination if funding is not provided in the second or a subsequent year of the term.

ii) Maintenance/Service Coincidentally Acquired Assets, Software License, Subscription Based Service (Appendix A, Point 4)

The current five (5) year limit also means that the City must procure a provider every five (5) years. There are occasions when the City makes significant investment into a product in terms of integration with other systems, processes, software or data storage, but must go to market to procure a provider at the five (5) year term. Section 24.1 of the current Bylaw contains a provision allowing contracts to be extended beyond the five (5) year contract limit but, only if they relate to the maintenance or service of an existing or coincidentally acquired asset. In the past, software purchases were an asset purchase, and used this provision, however, these services are now commonly being made available as a subscription-based service (i.e., internet or web-based software). The proposed Bylaw amendment will permit the acquisition or extension of a contract beyond ten (10) years provided the City is able to terminate the agreement on at least an annual basis.

It is also recommended to add a new section, section 24.2, which will allow for contracts to extend beyond the ten (10) year term if they relate to the maintenance or service of an existing or coincidentally acquired asset, software licence agreements, or subscription-based technology system with a term of up to five (5) year, without an annual termination clause. This will ensure the City is getting best value using longer term contracts, as recommended in the Efficiency Review.

iii) Director Ability to Authorize Contracts Up to Five Years (Appendix A, Point #3).

The current provision in Section 23 (d) allows the Director of the department to authorize terms of contracts that do not exceed two (2) years, if the total purchase price does not exceed their delegated level of authority. It is proposed this be extended to five (5) years so that Directors can sign off on contracts for better efficiency.

Standard Procurement Methods and Consulting and Professional Services (Appendix A, Point #5 & #7)

It is recommended that consulting and professional services be incorporated into Part III – General Acquisition Process and Part IV – Non-Standard Procurement Methods sections to streamline the process and create better clarity of guidelines around the procuring of consulting and professional services. This is a housekeeping amendment and creates no changes in delegation of authorities.

Non-Standard Procurement Methods (Appendix A, Point #6)

A non-standard procurement could be either a non-competitive procurement or a limited competitive procurement. Under the trade treaties, there is a threshold of \$75,000. Below that threshold, the City can, at its own discretion, undertake non-standard procurement methods (limited competitive procurement). Administration has developed protocols outside of the Bylaw to ensure that non-standard procurements are the exception to ensure the City's procurement processes remains transparent and fair.

Currently, the City allows sole sourcing of a good or service and direct appointing consultants and professional services, as long as the costs do not exceed \$7,500 and \$75,000 respectively under restricted circumstances. The proposed changes to the Bylaw expand the restricted circumstances to reflect the exceptions in the trade treaties and categorize sole source and direct appointments as non-standard procurement. Current situations where non-standard methods are allowed under the Bylaw include:

- an emergency;
- there is only a single vendor due to proprietary rights;
- the City has adopted a City standard through a public process;
- the commodity is subject to a fluctuating price;
- the purchase is from another government owned enterprise, academic institutions, or library;
- or
- other exceptions that may be available under applicable trade treaties.

The proposed changes include sourcing used goods/services. At present, Administration does not have a viable process to acquire goods or equipment from auctions. It is recommended that additional subsections be included in the Consulting and Professional Services section to include the acquisition of goods or equipment that is sold through auctions. This change allows the City to

extend the useful life of an asset and help contribute to the sustainability goals of the City. As well, appointment of a consultant made by the City Solicitor for the provisions of legal services will also be added to the list of restricted circumstances where a non-standard procurement method may be used.

Schedule E (Appendix A, Point #8)

Generally, only the City Clerks can sign contracts on behalf of the City. Schedule E to the Bylaw lists the exceptions for the authority to sign contracts that bind the City. Schedule E currently does not allow someone other than the City Clerk to “sign” software agreements that do not require a signature, such as online click “I agree” agreements. It is recommended that Schedule E be amended to delegate the authority to approve these small (\$7,500) and medium (\$75,000) dollar contracts to the Director, or their delegate responsible for Technology. This will create efficiency in the procurement process.

DECISION HISTORY

Respectfully submitted,



Kim Krywulak
Director
Financial Services

Respectfully submitted,



Barry Lacey
Executive Director
Financial Strategy & Sustainability

Prepared by: Tammy Moyse, Manager Procurement & Supply Chain

ATTACHMENTS

Appendix A - Proposed Amendments to Admin Bylaw