Minutes – Executive Policy Committee – December 7, 2005

REPORTS

Minute No. 68 **Red Tape Commission Recommendations – No. 6 – Standardized Contracts**
File GG-5

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee laid over consideration of the matter for thirty (30) days.

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DECISION MAKING HISTORY:

Moved by Councillor Magnifico,

That consideration of the matter be laid over for thirty (30) days.

Carried

COUNCIL DECISION:

On July 27, 2005, Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the concept of Recommendation 6 be endorsed for implementation.

    - Recommendation 6
      Adopt common account numbers, standardized contracts and other existing tools from other organizations to reduce paperwork.

2. That the Mayor and Chief Administrative Officer be authorized to develop proposals to use the Manitoba business number system to register, track and identify City of Winnipeg businesses and business accounts, and to negotiate directly with the Government of Manitoba and the Government of Canada to achieve this goal.

3. That the Chief Administrative Officer identify cases in which standardized contracts may be used in lieu of unique City of Winnipeg contracts or documents and that a report be provided to Executive Policy Committee within 120 days on an implementation plan for this recommendation.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REPORT

RE: Red Tape Commission Report: Recommendation 6.2 –"Standardized Contracts"

FOR SUBMISSION TO: **Executive Policy Committee**

ORIGINAL REPORT SIGNED BY: **Chief Financial Officer**

REPORT DATE: **November 29, 2005**

RECOMMENDATION(s):

That this report be received as information on the progress of research into Recommendation 6.2 of the Mayor's Red Tape Commission Report.

Report Summary

Key Issues:

To address progress made to date as a result of the Administration's review of Recommendation 6.2 of the Mayor's Red Tape Commission Report

Implications of the Recommendation(s):

General Implications:

X None

☐ For the organization overall and/or for other departments

☐ For the community and/or organizations external to the City

☐ Involves a multi-year contract
Comment(s):

Policy Implications:

X No

☐ Yes
Comment(s):

Environment Implications:

X No

☐ Yes
Comment(s):

Human Resources Implications:

X No

☐ Yes
Comment(s):

Financial Implications:

☐ Within approved current and/or capital budget

☐ Current and/or capital budget adjustment required

X Comment: There is no financial impact.

REASON FOR THE REPORT:

At its meeting of July 27, 2005, Council concurred in the recommendation of the Executive Policy Committee and adopted the following from the Final Report of the Mayor's Red Tape Commission, dated June 28, 2005.

Council:

3. That the Chief Administrative Officer identify cases in which standardized contracts may be used in lieu of unique City of Winnipeg contracts or documents and that a report be provided to Executive Policy Committee within 120 days on an implementation plan for this recommendation.

It was directed that the report be submitted to Executive Policy Committee for consideration by December 7, 2005.

HISTORY:

On November 23, 2004, the Mayor officially established a Red Tape Commission, chaired by Councillor Franco Magnifico, to review City operations and regulations in order to improve customer service while granting administrators more freedom to innovate.

The Red Tape Commission submitted a final report, dated June 28, 2005, containing 30 general recommendations, each with numerous more detailed sub-recommendations.

The Report indicated that Recommendation 6 was designed to reduce paperwork for business and government, using existing tools already built elsewhere.

DISCUSSION:

On July 27, 2005 Council concurred with recommendation 6.2 of the Red Tape Report

> **Recommendation 6.2**
>
> For City construction contracts, use standardized documents approved by the Canadian Construction Documents Committee wherever possible.

and directed that the Chief Administrative Officer identify cases in which standardized documents, approved by the Canadian Construction Documents Committee (CCDC), may be used in lieu of unique City of Winnipeg contracts or documents.

Materials Management (MM) contacted the Winnipeg Construction Association (WCA) to purchase copies of the documents in question.

CCDC publishes three standard contract forms, being CCDC 2 (Stipulated Price Contract), CCDC 3 (Cost Plus Contract) and CCDC 4 (Unit Price Contract). Materials Management, Legal Services and Risk Management reviewed the CCDC documents generally and selected the CCDC 2 for a more detailed review. While there are many similarities, there are significant differences.

MM conducted a survey of other organizations that purchase construction services, to inquire about their use of CCDC documents. The results of a survey of four other major Canadian cities found that the CCDC documents are not often used, and when used, the documents are significantly amended. Some Government Agencies in Winnipeg use the CCDC documents, others do not. The agencies that are using CCDC documents have a large percentage of construction in building construction and renovation, which differs from the City where the bulk of construction work is in roadwork/civil construction. In 2004, the contracts issued by the City for building construction and renovation, the type of work that could be considered for adoption of the CCDC documents, totalled 23.6% of the construction contracts and 19.2% of the construction dollars spent by the City.

Two examples of the City's more restrictive requirements that benefit the City are:

(a) Warranty:
    (i) CCDC starts at substantial performance;
    (ii) City most often starts at total performance.

    Example: A recent construction project was experiencing substantial delays in having deficiencies remedied. The Contractor was called on numerous

occasions, with no response. The contractor, thinking he was working under CCDC documents, had no incentive to remedy the deficiencies in a timely manner. When the contractor was reminded that warranty started at total performance, the deficiencies were corrected immediately.
While it is difficult to place a dollar figure on the City's requirement, the above example clearly demonstrates that not only would the warranty period expire sooner, but that the contractor has less incentive to complete the work when warranty starts at substantial performance.

(b) Liquidated damages:

(i) CCDC does not include clauses;

(ii) City templates have liquidated damages clauses which are included in bid opportunity documents where appropriate.

Many City construction projects include the provision for liquidated damages, resulting in charges against the contract for not completing the work on time. Similar to the warranty example, liquidated damages provides an incentive to the contractor to complete the work.

Further, as a result of the survey, and in the spirit of Recommendation 6, Administration will continue to investigate the similarities and differences between contracts and documents used by other jurisdictions. The City of Winnipeg may be successful in achieving some standardization between other Canadian cities and municipalities and will undertake to review amendments to make the City's documents more consistent in format and terminology with the CCDC documents. This effort should assist the business community, regardless of the jurisdiction.

Financial Impact Statement **Date:** November 24, 2005

No financial impact

Carrie Erickson
Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH, AND CONCURRENCE BY:
Corporate Services Department, Legal Services Division
Corporate Finance Department, Risk Management Branch and Materials Management Branch

THIS REPORT SUBMITTED BY:

Department:	Corporate Finance
Division:	Corporate Controllers
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File No:	Red Tape