Agenda – Council – May 19, 2010

Report – Executive Policy Committee – May 12, 2010

Item No. 2 Consultant Assignments – Amendment to Materials Management Policy
eFile ST-7

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 12, 2010, the Executive Policy Committee concurred in recommendation of the Winnipeg Public Service dated May 7, 2010, and submits the following to Council:

1. That the Chief Administrative Officer provide a semi-annual report to the Executive Policy Committee listing all consultant contracts that exceed the dollar amount set out above which have been sole sourced pursuant to section B4 of the Materials Management Policy.

2. That the revision of Section B4.1 of the Materials Management Policy to remove paragraph (h) be approved.

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

Report – Executive Policy Committee – May 12, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE DECISION:

On May 12, 2010, the Executive Policy Committee concurred in recommendation 1 of report dated May 7, 2010 from the Winnipeg Public Service.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 12, 2010, the Executive Policy Committee concurred in recommendations 2 and 3 of report dated May 7, 2010, from the Winnipeg Public Service, and submitted the matter to Council.

On April 7, 2010, the Executive Policy Committee laid over the matter for up to 30 days.

Further on April 7, 2010, the Executive Policy Committee received a communication from Harley Pankratz, President, Consulting Engineers of Manitoba Inc. dated April 6, 2010 in opposition to the administrative report regarding Consultant Assignments – Change to Administrative Standard.

On March 10, 2010, the Executive Policy Committee laid over the matter to its meeting on April 7, 2010.

On February 17, 2010, the Executive Policy Committee laid over the matter to its meeting on March 10, 2010.

On November 13, 2009, the Executive Policy Committee requested the Winnipeg Public Service to:

1. Examine the Procurement / Materials Management Policy, specifically the hiring of consultant services over $10,000, as well as the guidelines for determining which contracts are to be tendered vs. sole sourced;

2. Provide information on both best and general practices for Procurement / Materials Management in other jurisdictions across North America and around the World, including provisions required for this level of engineering, and report back with recommendations (changes) to the Material Management Policy.

ADMINISTRATIVE REPORT

ISSUE: **Recommendations for Change to Administrative Standard regarding Consultant Assignments**

Critical Path: **Executive Policy Committee / Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
Barb D'Avignon	Michael Ruta	M Ruta	G Laubenstein

RECOMMENDATION

1. That this report be received as information by Executive Policy Committee in as much as the Public Service has revised the Administrative Standard to require the solicitation of competitive bids effective January 1, 2011:

   a) where the estimated value of the consultant service relating to capital projects included in the capital budget exceeds $100,000 in total, including all phases of any given project;

   b) for all other consultant service requirements, other than those related to capital projects, where the estimated value of the consultant service exceeds $35,000 in total, including all phases of any given project.

   unless otherwise authorized by Executive Policy Committee.

2. That the Chief Administrative Officer provide a semi-annual report to the Executive Policy Committee listing all consultant contracts that exceed the dollar amount set out above which have been sole sourced pursuant to section B4 of the Materials Management Policy.

3. That Council approve the revision of Section B4.1 of the Materials Management Policy to remove paragraph (h).

IMPLICATIONS OF THE RECOMMENDATION

The recommendations will bring Winnipeg in line with most other large municipal jurisdictions. In addition, to reflect the intent of the above, a revision to the Materials Management Policy to remove reference to single source award negotiations relating to services by licensed professionals that are exempt from the application of the Agreement on Internal Trade.

HISTORY

Responsibility for solicitation of consultant contracts became part of the Materials Management Policy in 2004. Administrative Standard FM-002 pursuant to the Materials Management Policy also came into use at the same time. Since then, procedures have been implemented that include solicitation of competitive offers for approximately 60% of the dollars spent on consultants, or $21 million per year.

The Consulting community, including organizations such as the Professional Engineer's organization, and other like organizations, has been satisfied with this method of engaging professional consultants.

At its November 13th, 2009 meeting, the Executive Policy Committee directed the Winnipeg Public Service to examine the City's and other jurisdiction's practices for engaging consultant services over $10,000, and report back to EPC with recommendations for change to the Materials Management Policy.

Consultation was made with similar jurisdictions in Canada. The recommended revision to the Administrative Standard requires effective January 1, 2011 that competitive bids are obtained for consulting services in excess of $100,000 including all phases of any given project with respect to capital projects and $35,000 for projects other than capital.

The Materials Management Policy also permits single source negotiations in the following circumstances:

B4. SINGLE SOURCE NEGOTIATIONS

B4.1 A supply to be made to the City may be negotiated without the solicitation of competitive offers where the Chief Administrative Officer determines that, it is appropriate/necessary and that:

- *a) the supplier has an exclusive statutory right to make the requisite supply; or*
- *b) the supply is made by a public sector body, and the consideration is fair and reasonable; or*
- *c) the consideration for the supply is to be paid by a third party and that third party designates the supplier; or*
- *d) it is in the City's interests to protect the confidentiality of the supplier or the City; or*
- *e) the cost of solicitation of competitive offers is reasonably anticipated to exceed the benefits thereof; or*

f) the compatibility of a supply with existing property or services is the paramount consideration and that supply is available only from a single supplier; or

g) the supply is for testing or trial use; or

h) the supply is for services, including services by licensed professionals that are exempt from the application of the Agreement on Internal Trade; or

i) the supply is for interim contractual arrangements following the expiration of a contract; or

j) an emergency, including without limitation:

i. an act of God; or

ii. strikes or lock-outs; or

iii. laws, by-laws, ordinances, directives, codes and orders of authorities having jurisdiction, which come into force; or

iv. the frustration or breach of a contract; or

v. the receipt of unacceptable or uncompetitive bids;

creates an unforeseeable, immediate and serious need which jeopardizes the health or safety of any person, threatens public or private property or the environment, or adversely affects the functioning of the City, and which may not be reasonably met by any other procedure.

B4.2 A contract for a supply to be made pursuant to B4.1 (i) and (j), shall be only for the quantity or time reasonably required to meet the immediate need.

B4.3 A supply to be made by the City may be negotiated without the solicitation of competitive offers where the Chief Administrative Officer determines that:

a) it is in the City's interests to make the supply to a public sector body; or

b) it is in the City's interests to make the supply as the consideration, or any part thereof, for a supply to the City; or

c) the cost of disposal of property is reasonably expected to exceed the fair market value of the property.

The report further recommends that paragraph (h) above be removed from the Materials Management Policy to reflect the intent of the change in sole sourcing direction setout in the report.

FINANCIAL IMPACT

There is no financial impact relating to this recommendation.

signed by Mike Ruta
Chief Financial Officer

CONSULTATION

In preparing this Report there was consultation with: Legal Services, Similar Canadian Jurisdictions and affected City departments

SUBMITTED BY

Department: Corporate Finance
Division: Materials Management
Prepared by: Barb D'Avignon, Manager of Materials
Date: May 7, 2010
File No.

ADMINISTRATIVE REPORT

ISSUE: **Recommendations for Change to Administrative Standard regarding Consultant Assignments**

Critical Path: **Executive Policy Committee**

AUTHORIZATION

Author	Department Head	CFO	CAO
Barb D'Avignon	Michael Ruta	M Ruta	G Laubenstein

RECOMMENDATION

That this report be received as information in as much as the public service has revised the Administrative Standard to require the solicitation of competitive offers where the estimated value of the consultant service exceeds one hundred thousand ($100,000) dollars, unless otherwise authorized by the Chief Administrative Officer

IMPLICATIONS OF THE RECOMMENDATION

This recommendation will bring Winnipeg in line with most other large municipal jurisdictions.

HISTORY

Responsibility for solicitation of consultant contracts became part of the Materials Management Policy in 2004. Since then, procedures have been implemented that include solicitation of competitive offers for approximately 60% of the dollars spent on consultants, or $21 million per year.

The Consulting community, including organizations such as the Professional Engineer's organization, and other like organizations, has been satisfied with this method of engaging professional consultants.

At its November 13th, 2009 meeting, the Executive Policy Committee directed the Winnipeg Public Service to examine the City's and other jurisdiction's practices for engaging consultant services over $10,000, and report back to EPC with recommendations for change to the Materials Management Policy.

Consultation was made with similar jurisdictions in Canada. The recommended revision to Administrative Standard will:

- bring the City of Winnipeg consultant procedures more in line with other jurisdictions; and
- ensure that an estimated 90% of dollars spent on consultants, or approx. $31 million per year will be contracted through the solicitation of competitive offers.

FINANCIAL IMPACT

CONSULTATION

In preparing this Report there was consultation with: Legal Services, Similar Canadian Jurisdictions and affected City departments

SUBMITTED BY

Department: Corporate Finance
Division: Materials Management
Prepared by: Barb D'Avignon, Manager of Materials
Date: January 13, 2010
File No.