Minutes – Executive Policy Committee – January 22, 2014

REPORTS

Minute No. 107 Quarterly Status Report – Public Service response to the Report on New Fire Paramedic Stations Construction Project

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That the report be received as information.

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

DECISION MAKING HISTORY:

Moved by Councillor Nordman,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

David Sanders submitted a communication dated January 22, 2014 in opposition to the Quarterly Status Report – Public Service response to the Report on New Fire Paramedic Stations Construction Project.

ADMINISTRATIVE REPORT

Title: **Quarterly Status Report: *Public Service response to the Report on New Fire Paramedic Stations Construction Project***

Critical Path: **EPC - Council**

AUTHORIZATION

Author	Department Head	CFO	A/CAO
Etoile Stewart	Deepak Joshi	N/A	Mike Ruta

RECOMMENDATIONS

1. That this report be received as information

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

REASON FOR THE REPORT

On October 22, 2013, City Council concurred in the 14 recommendations contained in the *New Fire Paramedic Stations Construction Project* audit prepared by Ernst &Young (E&Y) and directed that the Public Service report to Council on the implementation of the recommendations on a quarterly basis over the next year. This is the first such report.

HISTORY

On November 21, 2008 a plan outlining the urgent need for Winnipeg Fire Paramedic Service (WFPS) infrastructure replacement, identified by a 2005 WFPS internal review, was presented to the Chief Administrative Officer (CAO). In the summer of 2009, a committee made up of Public Service officials and United Fire Fighters of Winnipeg (UFFW) members met to discuss how to address replacing the inadequate facilities, and significantly improve emergency response times and operational efficiencies in a timely manner. A two phase program to strategically replace aging stations was recommended. Phase one included the following four stations for replacement and/or new construction: Sage Creek, River Heights, St. James and Charleswood.

The Standing Policy Committee on Protection and Community Services concurred in the above recommendation of the Winnipeg Public Service on February 3, 2010.

On September 24, 2012, in response to issues arising from the construction of the four new Winnipeg Fire Paramedic Service Stations the Mayor accepted the recommendation of the City Auditor to retain external resources to complete a comprehensive review of the transactions relating to the new stations and report back to council.

On October 22nd, 2013 the report prepared by Ernst & Young providing 14 recommendations for process, control and policy improvements resulting from the review was considered at a meeting of City Council.

The following responses and actions are the Public Service's work plan to address each of the 14 recommendations provided in the Report on *New Fire Paramedic Stations Construction Project.* The Public Service will report back to Council on a quarterly basis regarding the implementation of the recommendations and will provide council seminars on same over the next year.

The Public Service has acknowledged that there is room for improvement and has already implemented initial changes to improve reporting. The Public Service continues to seek ways to improve and increase the transparency of the City's reporting systems and processes. Throughout the process of delivering the program, the Public Service accepted the recommendations of council, and followed existing City of Winnipeg by-laws, Council policies, administrative standards and practices in a fair manner, per due process and best intentions.

The following responses and actions serve to provide greater clarity to support the application of Council policies, administrative standards and practices, the intent being to more fully explain how these will be applied. The responses and actions also note other means to disclose information, expanding upon what is already in process, thereby leading to greater transparency.

IMPLICATIONS OF THE RECOMMENDATIONS

Recommendation 1 - *The City needs to examine the basis under which they allow single source contracting. We believe that Council needs to consider at what threshold single source negotiation decisions are brought to their attention. Council also should consider the contract award delegation limits as it relates to single source contracts.*

The Public Service agrees. The basis under which single source contracting is approved is laid out in the Materials Management Policy and is aligned with the Agreement on Internal Trade (Canada). The Materials Management Policy will be amended to include a definition of single source and the documentation required in the case of a cost benefit application.

The Chief Administrative Officer currently has award authority for single source contracts in an amount not to exceed $5 million (as approved by Council on Nov.20, 2013). The Public Service will be recommending that this authority to approve single source contracts be reduced to $1 million.

Action: Revise award authority limits for single source negotiation approvals; guidelines for cost benefit analysis and definition of 'single source' to be included. Corporate Finance to complete Report to Council in Q2 2014.

Recommendation 2 - *Currently City procurement policies allow for proponents to propose substitutes for City RFP specifications during the procurement process. We concur that proponents should be encouraged to offer suggestions or substitutes to be considered by the City. We however, suggest that the City change its current approach of not informing other proponents during the bidding process, of the City's acceptance of a substitute. A truly open and transparent process requires such.*

The Substitutes clause is included in most City Bid Solicitation Documents. Under this clause, a request for a Substitute is defined as a request for approval of an "approved alternative" or an "approved equal". The clause details how a bidder requests approval of a Substitute, what information the bidder must provide to the City with the request, and how the City will respond to the request. The clause contains the wording:

"The Contract Administrator will provide a response in writing, at least two (2) Business Days prior to the Submission Deadline, only to the Bidder who requested approval of the Substitute. The Bidder requesting and obtaining the approval of a substitute shall be entirely responsible for disseminating information regarding the approval to any person or persons he/she wishes to inform."

At issue is the common practice in public procurement that the owner, acting in good faith, should not use a proponent's idea for its benefit and allow others to bid using that idea. The disclosure of one bidder's idea, proprietary or not, will discourage bidders from offering a substitution, knowing that their ideas will be shared with the business community-at-large. Disclosure removes the advantage of creative ideas which have shown to reduce costs in the past. The Public Service should not change its approach for this reason.

The Public Service with the assistance of the City Auditor will be obtaining other best practices utilized in this area from across Canada. With this information, consideration will then be given to improvement opportunities.

Action: Corporate Finance met with City Auditor to discuss. City Auditor to follow up with E&Y and provide Public Service with successful examples used in other jurisdictions for further review and consideration. Complete in Q1 2014.

Recommendation 3 - *Shindico was provided information not available to other proponents in respect to both RFP's. Prior to issuance of a RFP, MM should obtain the details of all discussions that have taken place with proponents from the user departments in order to develop a strategy to inform all proponents of information that may not be known and not disclosed in the RFP. Such action is required to ensure all proponents are bidding from a level playing field.*

The Public Service agrees. For each tender/RFP issued by Materials Management, Materials Management will enquire with the writer of the tender/RFP and receive written confirmation from same of any discussions or correspondence with potential contractors/subcontractors regarding the specific tender/RFP.

Action: This process within the Materials Management Division will be amended to include all tender/RFP requests as indicated above.

Recommendation 4 - *The competitive nature of the original RFP was considerably limited by the City's desire to try and identify properties to be used for construction of new stations. We recommend that the City, via PP&D, conduct a detailed assessment of City owned properties potentially available and/or conduct land only acquisitions in advance of similar future RFP's. The use of design/build or build only RFP's, rather than ones that include the provision of land, will create a more competitive environment that should help ensure good value to the City.*

The Planning, Property and Development Department maintain an up-to-date inventory of City-owned real property assets. When a city owned property is sold or private property is acquired, the Real Estate Division staff informs Land Information Services Division who update the city land record in the AMANDA database. PP+D continues to evaluate processes to ensure the accuracy and timelines of the information.

In addition, the Department will develop a procedure to evaluate whether any City-owned property is available to accommodate a proposed project or, if necessary, privately-owned property that can/may be acquired (subject to Council approval) in advance of proceeding with the issuance of a RFP.

Action: PP+D to review and draft procedure/policy to go to Council by Q3 2014.

Recommendation 5 - *Project management of real estate construction projects and the lead in all real estate transactions should reside with PP&D. If capacity constraints exist, a plan to address such needs should be developed.*

The Public Service agrees with the recommendation and has added two new Project Officer Positions within the Municipal Accommodations Division of the Planning, Property and Development Department to oversee/manage major real estate construction projects on behalf of Client Departments. In addition, the Real Estate Division has reviewed their staffing capacity to ensure that the Public Service is efficiently responding to real property matters regarding major projects, in the best interests of the City, and in accordance with Council policy.

Action: Has been addressed; an additional project officer was hired in 2013.

Recommendation 6 - *We are concerned that certain policies such as the establishment of a Major Capital Steering Committee and delegations established by Council, including the authority to enter into contracts above $10 million can be by-passed if a project is split into a number of smaller contracts. Council should make a clear statement to the Public Service in respect to their expectations in this regard.*

Delegated contract award authority to the Chief Administrative Officer has been reduced from $10 million to $5 million (Council Nov. 20, 2013).

Contract award authorities are always determined by the value of each contract awarded (In all cases, there must be funds in an approved budget). These criteria are in the City's

Administrative Standard *Financial Management - 002 Materials Management Policy* (FM-002) which outlines the delegation of authority related to procurement and contract administration.

In regards to Major Capital Steering Committees, Administrative Standard *Financial Management - 004 – Capital Project Administration* (FM-004) provides authoritative direction to the Public Service. It is the project budget that determines when these committees are activated, not the contract(s). This is the appropriate level to measure this against.

Specifically, the Administrative Standard states in the last paragraph on page 10: "Capital projects considered routine, ongoing capital works and where individual components could be completed in isolation at a cost substantially less than $10 million would be excluded from the formation of a Major Capital Project Steering Committee."

This Administrative Standard will be updated to better define and differentiate a project from a program and the implications to the establishment of Major Capital Steering Committees.

As well, those projects requiring a Major Capital Steering Committee will be disclosed in the annual Capital Budget and Five Year-Forecast.

Action: 1) Delegated authority to CAO has been reduced to $5 million (Nov.13, 2013).
2) Corporate Finance met with City Auditor to discuss perceived contract splitting for award authority. Corporate Finance will prepare a report to Council (early Q2 2014) requesting concurrence with proposed amendments to be made to FM-004 including:

- Better definitions of "project" and "program"
- Committee establishment threshold to increase annually by construction inflation
- Accountability requirements for programs.

Recommendation 7 - *Clear policies must be established which document expected disclosure to Council, when transactions have not occurred in a manner that is established by City Policies. For example, disclosure to Council should be required when the following situations occur: the commencement of construction in advance of contract award, splitting of contracts due to lack of approved funding, real estate transactions not having been led by PP&D, and Legal agreements not having been approved by Legal Services.*

The Public Service agrees with the recommendation. No construction should commence in advance of approval of contract award and splitting contracts due to lack of funding will not be allowed.

Action: A letter from the CAO to administration will be communicated to all staff that outlines the current process, reinforces said process and explains what sort of transactions would be outside of the established process that must therefore be disclosed to council. Complete in Q1 2014.

Recommendation 8 - *PP&D needs to develop, for Council approval, a policy regarding land exchange transactions that will speak to the timing and basis under which land valuations are to be done and the means under which any value gaps determined are to be dealt with.*

The Public Service agrees with the recommendation.

Action: PP+D and Legal will work together to review survey findings from Recommendation 9. PP+D to formulate a policy for consideration in Q2 2014.

Recommendation 9 - *Legal Services should establish clear policies regarding:*

- ► *Land acquisition agreements;*
- ► *Construction contracts related to land acquisition; and*
- ► *Authorities to be sought for Letter of Intent (LOI) or similar documents*

Legal Services has already formed a Working Group involving the lawyers from all related practice areas to develop these policies. A cross-country survey of related policies and best practices is currently under way. This will be done in close consultation with PP&D (see #8). Note: Materials Management advises not to revise LOI's associated with tender/RFP's process. This is done at the Director level and works well.

Action: Cross-country survey – complete in Q1 2014
Formulation of drafts for discussion with PP&D – complete in Q1 2014
Formulation of final drafts for consideration – Q2 2014

Recommendation 10 - *We do not believe that Legal Services acted in a manner to sufficiently protect the interests of the City. Additionally we believe at least part of this was caused by the reporting structure at the City. The Legal Services "gatekeeper" function would be enhanced if Legal Services reported to City Council rather than the City Administration, via the CAO. This is the structure in place for at least one major city in Canada.*

Toronto is the "one major city" referred to in Recommendation 10. As the Ernst & Young Report contained no further detail regarding this Recommendation other than the wording of the Recommendation itself, Legal Services is currently engaged in discussions with the City of Toronto Legal Services Division, through their City Solicitor. Using the Toronto model as a starting point, Legal Services will determine what reporting model would best serve the City of Winnipeg in a manner consistent with the intent of the Recommendation. Legal Services will also be identifying any obstacles or barriers, including any amendments required to either civic or provincial legislation to effect the intent of the Recommendation.

Action: Legal to complete Briefing Note by end of Q1 2014.

Recommendation 11 - *Prior to issuing building permits on City projects, PP&D should be required to obtain from MM signed statements that appropriately awarded contracts are in place and from Legal Services that all ownership rights in the subject property are unconditionally held by the City.*

The Public Service agrees with the recommendation and will implement a practice where prior to issuing building permits on City projects, PP&D will add processes and/or scanned documents to the AMANDA permit system that will record acknowledgement from Materials Management that contracts have been appropriately awarded and confirmation from Legal Services that all ownership rights in the subject property are unconditionally held by the City. The system will not be allowed to issue such permits if these processes are not complete.

Action: To be completed by Q2 2014.

Recommendation 12 - *We recommend that City policies regarding real estate transactions, including the declaration of surplus properties, be clarified as to identify at what stage of a proposed transaction Council Approval is to be sought.*

The Public Service agrees with the recommendation and will review all of its policies/practices regarding real estate transactions to identify at what stage Council approval is required.

Action: Report to Council for direction by Q3 2014

Recommendation 13 - *Corporate Finance should determine a standardized protocol for the challenging of capital budget submissions and project reporting.*

The Public Service agrees. Over the past couple years, the City has been implementing its Asset Management Program Initiative. Included in the program, as part of the Investment Planning/Budget process, each project business case includes a challenge session which examines the need (level of service and risk), assumptions and recommended solutions. The business cases, the basis for the capital budget submission, were prepared for projects greater than $500,000 for the most recent Capital Budget (2014). The plan for the 2015 submission is to have departments prepare business cases for projects greater than $100,000 for the budget year (2015) plus two forecast years (2016 and 2017). This will also apply to “in year” amendments to the Capital Budget. This new component is the core of the Asset Management Program Initiative.

Regarding project reporting, Administrative Standard FM-004, “Capital Project Administration”, requires quarterly reporting on project status. It also requires that the Major Capital Steering Committee for these projects to include staffing from Corporate Finance. Included in the Standard is a report format with guidelines/instructions on how to complete report.

Action: Corporate Finance to Report to Council requesting concurrence with amendments to be made to FM-004 in this regard by early Q2 2014. (See also Recommendation 6)

Recommendation 14 - *Corporate Finance should develop a means under which non cash transactions, such as a land exchange, are captured so that the true costs of projects can be reported against the approved capital budget.*

The Public Service agrees. Guidance in respect of budgeting and accounting for land acquisitions are provided in Budget Standard Procedures and Accounting Guideline for Tangible Capital Assets.

For greater clarity, both of these will be updated, as well as Administrative Standard FM-004. Additional clarity can be added that budgets and actuals should include the accounting implications associated with non-monetary transactions i.e. land exchanges. Departments will be surveyed for other non-monetary transactions immediately.

Action: Updates to the three procedure documents noted will be drafted. Report to Council requesting concurrence with amendments to be made to FM-004 in this regard in early Q2 2014. (See also Recommendation 6)

FINANCIAL IMPACT

Financial Impact Statement **Date:** January 16, 2014

Project Name: **First Year of Program** **2014**

Quarterly Status Report : Public Service response to the Report on New Fire Paramedic Stations Construction Project

	2014	2015	2016	2017	2018
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments

There are no financial implications to this report.

(Original signed by R. Abeysekera)
Radhika Abeysekera
Manager of Finance - Campus Departments
Corporate Finance Department

Appendix A

Financial Management Administrative Standards

FM-001 Governance Structure - Financial Management (superseded by Administrative Standard No. IS-001 - Governance Structure - Internal Services)

FM-002 Materials Management Policy (pdf, 96 kb)

FM-004 Capital Project Administration (pdf, 416 kb)

FM-005 Reserves Administration (pdf, 80 kb)

Appendix B

Firehall Audit Appendix B.docx

CONSULTATION

In preparing this report there was consultation with:

Corporate Finance
Planning, Property and Development
Legal Services
Office of the City Auditor

SUBMITTED BY

Department Office of the CAO
Division
Prepared by: Etoile Stewart
Date: *January 10, 2013*
File No.