Agenda – Council – July 19, 2018

Report – Executive Policy Committee – July 11, 2018

Item No. 8 Revisions to the Materials Management Policy F1-003

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 11, 2018, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That revisions to the Materials Management Policy F1-003, attached as Appendix A - Amendment to the Materials Management Policy, be approved, to become effective from and after the date of approval by Council.

2. 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 – July 11, 2018

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 11, 2018, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: REVISIONS TO THE MATERIALS MANAGEMENT POLICY F1-003

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. D'Avignon Manager of Materials	M. Ruta	P. Olafson, acting for M. Ruta	D. McNeil

EXECUTIVE SUMMARY

Revisions to the Materials Management Policy (the Policy) are recommended to bring the Policy up-to-date with current practices and in-line with various Trade Agreements.

In 2017, the City of Winnipeg (City) became subject to two new Trade Agreements: *The Canadian Free Trade Agreement* (CFTA) (replacing the Agreement on Internal Trade (AIT)) and *The Canada-European Union (EU) Comprehensive Economic and Trade Agreement* (CETA). Under these agreements, the City's procurement practices require minor changes.

Effective January 1, 2019, the City will also be subject to a third agreement, *The New West Partnership Trade Agreement* (NWPTA) (*Trade Agreement between Western Provinces*).

The NWPTA agreement will impose lower single source dollar thresholds than the current Trade Agreements.

Revisions to the Policy include:

- Addition of a guiding principle relating to the procurement of sustainable goods and services;
- Clarification of authority for approval of Single Source negotiations; who can approve under which circumstances;
- Revision to Trade Agreement language;
- Reduction in values for Single Source negotiations for all procurement;
- Various other changes

RECOMMENDATIONS

1. That Council approve revisions to the Materials Management Policy F1-003, attached as *Appendix A - Amendment to the Materials Management Policy*, to become effective from and after the date of approval by Council.

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

Council has the authority to approve revisions to the Materials Management Policy.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no financial implications with the revisions to the Policy. Revisions to the Policy will provide clarity to elected officials and the Winnipeg Public Service.

HISTORY/DISCUSSION

On March 24, 2004, Council adopted the Materials Management Policy which replaced the Policy on Purchasing Procedures and the Disposal of Surplus Supplies and the Policy on Assignment of Consultants.

Council has approved several revisions to the Policy in recent years.

On July 1, 1995, *The Agreement on Internal Trade* (AIT) came into force in Canada. AIT had little effect on how the City of Winnipeg performed daily tasks.

In 2017, the City became party to two new Trade Agreements; *The Canadian Free Trade Agreement* (CFTA) (replacing AIT) and *The Canada-European Union (EU) Comprehensive Economic and Trade Agreement* (CETA). Under these two agreements, the City's procurement practices require minor changes.

Currently, the CFTA agreement has single source thresholds of $100,000 for goods and services and $250,000 for construction which requires no revision to the Policy.

In addition to the above agreements, *The New West Partnership Trade Agreement* (NWPTA) is scheduled to become effective January 1, 2019. NWPTA contains lower single source dollar thresholds than CFTA or CETA. This will affect the City as the NWPTA thresholds require public solicitation for any goods and services (including Consultant Services) exceeding $75,000, and construction exceeding $200,000.

Currently, the City's Administrative Standard FM-002 imposes more onerous levels of approval for single source at:

- goods, services and construction $5000;
- Consultant Services $100,000 (Capital) and $35,000 (non-Capital).

Without single source approval, public solicitation is required where the estimated value exceeds the above thresholds.

All delegations of authority to the Winnipeg Public Service, pursuant to the Policy, are through the Chief Administrative Officer. This is consistent with the City Organization By-Law #7100/97.

The Policy is written to contain that which is necessary to set out Council's direction to the Winnipeg Public Service. The Chief Administrative Officer issues administrative standards that establish

procedures for the due administration of the Policy and the related delegations of authority, within the Winnipeg Public Service.

The Table below demonstrates the detail of the revisions included in *Appendix A – Amendment to the Materials Management Policy.*

Current version	Proposed revision	Note/Comment
A. Purpose: The City of Winnipeg Materials Management Policy provides governance of materials management functions and is founded on the following guiding principles: • The City's needs must be met in an effective and efficient manner. • The taxpayers of the City are entitled to the best value for their taxes. • All businesses are entitled to fair and ethical treatment.	**A. Purpose** Add a 4th guiding principle: • Procurement of sustainable goods and services.	*Note: Materials Management is updating the Policy in order to include Sustainable Procurement within the Policy. This revision to the Policy will supersede the Sustainable Development & Environmental Issues Policy (1990) and bring the Policy in-line with A Sustainable Winnipeg, an OurWinnipeg Direction Strategy.*
B1. Definitions:		
B1.1(b) "Agreement on Internal Trade" means the intergovernmental agreement between the federal government and the provinces and territories to reduce and eliminate barriers to free movement of people, goods, services and investments within Canada, which became effective July 1, 1995, and in particular Annex 502.4 Procurement Provisions for municipalities, which became effective April 17, 1999	Delete: B1.1(b) **"***Agreement on Internal Trade…***"** Replace with: (ac) "Trade Agreements" means any trade agreements that apply to the City of Winnipeg	
	(u) "Single Source" means any supply where the City solicits a supplier or suppliers of its choice or where the City issues a solicitation that requires the contractor to supply goods or services of a particular supplier that have not been previously competitively bid.	New
	(aa) "sustainable goods" means environmentally, socially and economically preferable goods that have a more beneficial or less adverse impact on the economy, environment, health and social well-being when compared with competing goods	New
	(ab) "sustainable services" means environmentally, socially and economically preferable services that have a more beneficial or less adverse	New

Current version	Proposed revision	Note/Comment
	impact on the economy, environment, health and social well-being when compared with competing services	
	Revise/Renumber: letters on all definitions starting with (b)	
B3. Solicitation of Competitive Offers		
B3.3 Further to B3.2 (a)(i), where all bids received for a particular Bid Opportunity are not in substantial compliance with the terms and conditions of that Bid Opportunity and the estimated contract value does not exceed $1,000,000, the Chief Administrative Officer may determine, in the best interest of the City, that an award may be made to the Bidder who has submitted the most advantageous offer as a result of that publicly tendered Bid Opportunity with due regard to the evaluation criteria.	B3.3 Further to B3.2(a)(i), where all bids received for a particular Bid Opportunity are not in substantial compliance with the terms and conditions of that Bid Opportunity **and the estimated contract value does not exceed the dollar limits set out in B8.2**, the Chief Administrative Officer may determine, in the best interest of the City, that an award may be made to the Bidder who has submitted the most advantageous offer as a result of that publicly tendered Bid Opportunity with due regard to the evaluation criteria.	*Note: This does not apply to a Single Source.*
The words *Agreement on Internal Trade* occur in several places in Policy	B3.2 (b) (ii), B4.5 Replace: "…Agreement on Internal Trade (AIT)…" With: "…various Trade Agreements…"	
B4. Single Source Negotiations		
B4.1 Subject to B8, 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 in the best interest of the City, appropriate/necessary, and that:	B4.1 Subject to **B8.1 (i)**, 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 in the best interest of the City, appropriate /necessary, and that:	
Delete (replaced with B8.1.1): B4.4 Notwithstanding B4.1, where based on the estimated value of the contract, the supply to the City would be subject to the Agreement on Internal Trade, approval by Executive Policy Committee is required for negotiations without the solicitation of competitive offers unless those single source negotiations would be permitted in	See B8.1.1 below	

Current version	Proposed revision	Note/Comment
accordance with Appendix C and Appendix D of Annex 502.4 of the Agreement on Internal Trade. Appendix C and Appendix D attached.		
B4.5 Where the request for Single Source negotiation exceeds the thresholds of the Agreement on Internal Trade, $250,000 for construction/$100,000 for goods and services (other than construction), a cost/benefit analysis must accompany the request.	B4.5 Where the request for Single Source negotiation exceeds the thresholds of the various Trade Agreements, $250,000 for construction/$100,000 for goods and services (other than construction), a cost/benefit analysis must accompany the request. B4.5.1 Effective January 1, 2019, where the request for Single Source negotiation exceeds the strictest thresholds of the various Trade Agreements, $200,000 for construction/$75,000 for goods and services, a cost/benefit analysis must accompany the request.	
B6. Ethics		
B6.2.2 The Chief Administrative Officer may waive clause B6.2 (a), (b) and (c) where he or she is satisfied that proper disclosure has been made, that the City employee will be able to perform his or her duties as a City employee without bias or favouritism, and the award, if any, will be in the best interests of the City	B6.2.2 **The appropriate authority identified in the City of Winnipeg Employee Code of Conduct** may waive clause B6.2 (a), (b) and (c) where he or she is satisfied that proper disclosure has been made, that the City employee will be able to perform his or her duties as a City employee without bias or favouritism, and the award, if any, will be in the best interests of the City.	*Note: To bring the Policy's Ethics section in line with the City of Winnipeg Employee Code of Conduct*
B8. Authority of the Chief Administrative Officer		
B8.1 (g) determine that it is in the best interest of the City to not make an award of contract	B8.1 (g) determine that it is in the best interest of the City to not make an award of contract, **including where the recommendations comply with the Materials Management Policy but do not comply with the various Trade Agreements**	
	B8.1.1 Further to B8.1 (i), where the estimated value of the contract to be negotiated exceeds	**Notes**: *B8.1.1 Provides clarification*

Current version	Proposed revision	Note/Comment
	$1,000,000, or the procurement is not permitted under the Policy or the various Trade Agreements, the Chief Administrative Officer shall forward a recommendation to: (a) the appropriate Standing Committee which may approve the Single Source negotiation where the Single Source is permitted under the Policy and the various Trade Agreements; or (b) Executive Policy Committee which may approve the Single Source negotiation where the Single Source is not permitted under the Policy and/or not permitted under the Various Trade Agreements.	*of authority for approval of Single Source negotiations; who can approve under which circumstances.* *B8.1.1 (b) Delegates Council's authority to EPC to approve Single Source negotiations that are not allowed under the Materials Management Policy.*
Delete B8.2.2 (duplicate of B8.2.1)		
D. Appendices	**D. Other Relevant Policies and Agreements**	Revising title of section **D.**
D1.1 Appendices of Annex 502.4 of the Agreement on Internal Trade (a) Appendix C attached (b) Appendix D attached D1.2 Further information on the Agreement on Internal Trade, effective July 1, 1995, Annex 502.4, effective April 17, 1999 is available at: http://www.ait-aci.ca/en/ait/ait.pdf D1.3 Other Council policies may be applicable to this Materials Management Policy including but not limited to: (a) The Purchasing Policy with Respect to Sustainable Development and Environmental Issues adopted by Council on November 21, 1990 (currently under review as Sustainable Development Policy) http://www.winnipeg.ca/finance/findata/matmgt/policy/Sustainable%20Development%20and%20Environmental%20Issues%20Policy.pdf (b) Universal Design Policy http://www.winnipeg.ca/ppd/planning/pdf_folder/EPC_UnivDesign.pdf City of Winnipeg Green Building Policy:	D.1 Other relevant Policies and Agreements include: a) Canadian Free Trade Agreement (CFTA) (Effective July 1, 2017) (*Replaces Agreement on Internal Trade (AIT)*) https://www.cfta-alec.ca/canadian-free-trade-agreement/ b) The Canada-European Union Comprehensive Economic And Trade Agreement (CETA) (Effective September 21, 2017) http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/overview-apercu.aspx?lang=eng c) New West Partnership Trade Agreement (NWPTA) *(Effective January 1, 2019)* http://www.newwestpartnershiptrade.ca/ D1.2 Other Council policies may be applicable to this Materials Management Policy including but not limited to:	Revising contents of section **D.** Current Appendices C & D contain excerpts from AIT

Current version	Proposed revision	Note/Comment
Current version	**Proposed revision**	**Note/Comment**
New City-owned Buildings and Major Additions	a) Universal Design Policy http://winnipeg.ca/ppd/planning/pdf_folder/EPC_UnivDesign.pdf b) City of Winnipeg Green Building Policy: New City-owned Buildings and Major Additions http://www.winnipeg.ca/finance/findata/matmgt/documents//2013/401-2013//401-2013_Appendix_D_City_of_Winnipeg_Green_Building_Policy_New_City-Owned_Buildings_and_Major_Additions-December_2011.pdf	

FINANCIAL IMPACT

Financial Impact Statement **Date:** June 4, 2018

Project Name:

REVISIONS TO THE MATERIALS MANAGEMENT POLICY F1-003

Comments:
There are no financial implications associated with the revisions to the Materials Management Policy.

original signed by
Tanis Yanchishyn
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

In preparing this report there was consultation with:

Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

SUBMITTED BY

Department: Corporate Finance
Division: Materials Management
Prepared by: Barb D'Avignon
Date: June 21, 2018

Attachments:

Appendix A - Amendment to the Materials Management Policy

POLICY TITLE	ADOPTED BY	EFFECTIVE DATE
Materials Management Policy	City Council	March 24, 2004
ORIGIN / AUTHORITY	**CITY POLICY NO**	**MOST RECENT CONSOLIDATION**
Executive Policy Committee	F1-003	

1. Purpose:

Revisions to the Materials Management Policy (Policy) will bring the Policy up-to-date with current procurement practices.

2. Amendment to Materials Management Policy

A. Purpose

Addition:

Add a 4th guiding principle:

- procurement of sustainable goods and services

Note: Materials Management is updating the Policy in order to include Sustainable Procurement within the Policy. This revision to the Policy will supersede the Sustainable Development & Environmental Issues Policy (1990) and bring the Materials Management Policy in-line with A Sustainable Winnipeg, an OurWinnipeg Direction Strategy.

B1. Definitions:

Delete:

B1.1 (b) **"***Agreement on Internal Trade***"** (replaced by *Trade Agreements* defined inB1.1 (ac)

Additions:

(u) "Single Source" means any supply where the City solicits a supplier or suppliers of its choice or where the City issues a solicitation that requires the contractor to supply goods or services of a particular supplier that have not been previously competitively bid.

(aa) "sustainable goods" means environmentally, socially and economically preferable goods that have a more beneficial or less adverse impact on the economy, environment, health and social well-being when compared with competing goods.

(ab) "sustainable services" means environmentally, socially and economically preferable services that have a more beneficial or less adverse impact on the economy, environment, health and social well-being when compared with competing services.

(ac) "Trade Agreements" means any trade agreements that apply to the City of Winnipeg.

Revise/Renumber:

letters on all definitions starting with (b)

B3. Solicitation of Competitive Offers

Replace:

B3.3 Further to B3.2(a)(i), where all bids received for a particular Bid Opportunity are not in substantial compliance with the terms and conditions of that Bid Opportunity and the estimated contract value does not exceed $1,000,000, the Chief Administrative Officer may determine, in the best interest of the City, that an award may be made to the Bidder who has submitted the most advantageous offer as a result of that publicly tendered Bid Opportunity with due regard to the evaluation criteria.

With:

B3.3 Further to B3.2(a)(i), where all bids received for a particular Bid Opportunity are not in substantial compliance with the terms and conditions of that Bid Opportunity and the estimated contract value does not exceed the dollar limits set out in B8.2, the Chief Administrative Officer may determine, in the best interest of the City, that an award may be made to the Bidder who has submitted the most advantageous offer as a result of that publicly tendered Bid Opportunity with due regard to the evaluation criteria.

Note: This does not apply to a Single Source.

B3.2 (b) (ii), B4.5

Replace:

"…Agreement on Internal Trade (AIT)…"

With:

"…various Trade Agreements…"

B4. Single Source Negotiations

Replace wording in:

B4.1 "Subject to B8, …",

With:

B4.1 "Subject to B8.1 (i), …"

Delete:

B4.4 Notwithstanding B4.1, where based on the estimated value of the contract, the supply to the City would be subject to the Agreement on Internal Trade, approval by Executive Policy Committee is required for negotiations without the solicitation

of competitive offers unless those single source negotiations would be permitted in accordance with Appendix C and Appendix D of Annex 502.4 of the Agreement on Internal Trade. Appendix C and Appendix D attached.

Replaced with B8.1.1

Replace:

B4.5 Where the request for Single Source negotiation exceeds the thresholds of the Agreement on Internal Trade, $250,000 for construction/$100,000 for goods and services (other than construction), a cost/benefit analysis must accompany the request.

With:

B4.5 Where the request for Single Source negotiation exceeds the thresholds of the various Trade Agreements, $250,000 for construction/$100,000 for goods and services (other than construction), a cost/benefit analysis must accompany the request.

B4.5.1 Effective January 1, 2019, where the request for Single Source negotiation exceeds the strictest thresholds of the various Trade Agreements, $200,000 for construction/$75,000 for goods and services, a cost/benefit analysis must accompany the request.

B6. Ethics

Replace:

B6.2.2 The Chief Administrative Officer may waive clause B6.2 (a), (b) and (c) where he or she is satisfied that proper disclosure has been made, that the City employee will be able to perform his or her duties as a City employee without bias or favouritism, and the award, if any, will be in the best interests of the City

With:

B6.2.2 The appropriate authority identified in the City of Winnipeg Employee Code of Conduct may waive clause B6.2 (a), (b) and (c) where he or she is satisfied that proper disclosure has been made, that the City employee will be able to perform his or her duties as a City employee without bias or favouritism, and the award, if any, will be in the best interests of the City.

Note: To bring the Policy's Ethics section in line with the City of Winnipeg Employee Code of Conduct

B8. Authority of the Chief Administrative Officer

Replace:

B8.1 (g) determine that it is in the best interest of the City to not make an award of contract

With:

B8.1 (g) determine that it is in the best interest of the City to not make an award of contract, including where the recommendations comply with the Materials Management Policy but do not comply with the various Trade Agreements

Additions:

B8.1.1 Further to B8.1 (i), where the estimated value of the contract to be negotiated exceeds $1,000,000, ***or*** the procurement is not permitted under the Policy or the various Trade Agreements, the Chief Administrative Officer shall forward a recommendation to:

(a) the appropriate Standing Committee which may approve the Single Source negotiation where the Single Source is permitted under the Policy and the various Trade Agreements; *or*

(b) Executive Policy Committee which may approve the Single Source negotiation where the Single Source is not permitted under the Policy and/or not permitted under the various Trade Agreements.

Notes: *B8.1.1* *Provides clarification of authority for approval of Single Source negotiations; who can approve under which circumstances.*

B8.1.1 (b) *Delegates Council's authority to EPC to approve Single Source negotiations that are not allowed under the Materials Management Policy.*

Delete:

B8.2.2 *(duplicate of B8.2.1)*

D. Appendices

Replace title:

Appendices
(Including D1.1, D1.2 and D1.3)

With:

D. Other Relevant Policies and Agreements

D.1 Other relevant Policies and Agreements include:

a) Canadian Free Trade Agreement (CFTA) (Effective July 1, 2017)

(*Replaces Agreement on Internal Trade (AIT)*)

https://www.cfta-alec.ca/canadian-free-trade-agreement/

b) The Canada-European Union Comprehensive Economic And Trade Agreement (CETA) (Effective September 21, 2017)

http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/overview-apercu.aspx?lang=eng

c) New West Partnership Trade Agreement (NWPTA)

(Effective January 1, 2019)

http://www.newwestpartnershiptrade.ca/

D1.2 Other Council policies may be applicable to this Materials Management Policy including but not limited to:

a) Universal Design Policy

http://winnipeg.ca/ppd/planning/pdf_folder/EPC_UnivDesign.pdf

b) City of Winnipeg Green Building Policy: New City-owned Buildings and Major Additions

http://www.winnipeg.ca/finance/findata/matmgt/documents//2013/401-2013//401-2013_Appendix_D_City_of_Winnipeg_Green_Building_Policy_New_City-Owned_Buildings_and_Major_Additions-December_2011.pdf