Minute No. 265
Report – Executive Policy Committee – April 16, 2019

Item No. 3 Delegation of Single Source Negotiation Authority to the Chief Administrative Officer for Spring Flood 2019

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That authority be delegated under the Materials Management Policy (Policy) to the Chief Administrative Officer to approve Single Source negotiations, to a maximum of $5,000,000.00, where the Single Source is not permitted under the Policy and/or not permitted under the various Trade Agreements for urgent flood relief or prevention purposes during the Spring Flood of 2019; and that such approvals be reported on the annual report for Single Source Assignments for Consultants, Goods and Services.

2. That the Chief Administrative Officer report back to Council within 30 days of the approval of any single source negation permitted by this delegation of authority.

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 – April 16, 2019

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,
That the recommendation of the Executive Policy Committee be adopted.

Carried

Councillor Schreyer asked to be recorded as having voted in opposition to the item, in accordance with Rule 47(7) of the Procedure By-law.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 16, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments:

- Add "to a maximum of $5,000,000.00" to Recommendation 1 after "Single Source negotiations".

- Add the following new Recommendation 2 and renumber the remaining recommendation accordingly:

    "2. That the Chief Administrative Officer report back to Council within 30 days of the approval of any single source negation permitted by this delegation of authority."

and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: Delegation of Single Source Negotiation Authority to the Chief Administrative Officer for Spring Flood 2019

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
T. Yanchishyn	M. Ruta	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

On March 27, 2019 the Province released a flood outlook which stated:

- Winnipeg can expect peak river levels between 19 feet (favorable conditions) and 20.5 feet (unfavorable conditions) at James Avenue.
- Red River peak is expected to reach Emerson between April 12 and 23rd.
- Winnipeg can expect the peak approximately 3 days later.

The Public Service made significant contractual arrangements for goods and services in preparation for the flood that are in compliance with the Materials Management Policy and the various Trade Agreements based on the City's previous experience with floods.

In preparation for the City of Winnipeg's response to any flood event, it is anticipated that there may be other time sensitive single source procurement requests beyond those contracts already arranged. Although such expenditures might be considered emergency in nature and available for approval by the Chief Administrative Officer, it is not clear whether emergency provisions in recently imposed trade agreements have been met. In the event of an unexpected emergency, there will not be time to seek approval from Executive Policy Committee for the single source procurements without impacting the City's ability to respond to the flood event.

Delegation of authority to approve single source negotiations that would violate the Materials Management Policy, or various Trade Agreements, for those procurements related to the Spring Flood 2019 will ensure appropriate authority exists with the Chief Administrative Officer to enable a timely response to the requests for goods and services.

RECOMMENDATIONS

1. That Council delegate the authority under the Materials Management Policy (Policy) to the Chief Administrative Officer to approve Single Source negotiations where the Single Source is not permitted under the Policy and/or not permitted under the various Trade Agreements for urgent flood relief or prevention purposes during the Spring Flood of 2019; and that such approvals be reported on the annual report for Single Source Assignments for Consultants, Goods and Services.

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

Only Council can delegate authority under the Materials Management Policy to the Chief Administrative Officer.

IMPLICATIONS OF THE RECOMMENDATIONS

This delegation will ensure that the Chief Administrative Officer has the ability to respond to any unexpected emergencies during the 2019 flood event.

HISTORY/DISCUSSION

On March 27, 2019 the Province released a flood outlook which stated:

- Winnipeg can expect peak river levels between 19 feet (favorable conditions) and 20.5 feet (unfavorable conditions) at James Avenue.
- Red River peak is expected to reach Emerson between April 12 and 23rd.
- Winnipeg can expect the peak approximately 3 days later.

Flood event preparations require expedient procurement measures to ensure the City is adequately protected which the current Materials Management Policy delegation of authority won't adequately provide.

In 2017, two trade agreements came into effect:

- The Canadian Free Trade Agreement (CFTA) reducing the ability of Canadian municipalities to sole source where the value exceeds $100,000 for goods and services or $250,000 for construction;
- The Canada-European Union Comprehensive Economic and Trade Agreement (CETA) with less stringent dollar value thresholds. However, CETA prescribes a minimum thirty (30) day bidding period for all procurements where the value exceeds $340,000 for goods and services or $8,500,000 for construction.

In 2019, the New West Partnership Trade Agreement (NWPTA) came into effect reducing the sole source thresholds to $75,000 for goods and services or $200,000 for construction.

All three Trade Agreements contain restrictions for sole source (single source). Although *emergency* is allowable under all trade agreements, regular springtime flooding events may be considered foreseeable according to Trade Agreements standards and therefore not a compliant justification for single source procurement.

Delegation of authority to approve single source negotiations that would violate the Materials Management Policy, or various Trade Agreements for those procurements related to the Spring Flood 2019 will ensure appropriate authority exists with the Chief Administrative Officer to enable a timely response to the requests for goods and services.

The Public Service made significant contractual arrangements for goods and services in preparation for the flood that are in compliance with the Policy and the various Trade Agreements. These arrangements include engineering consulting services, hired equipment and labour for the construction of clay dikes, pump rentals, bags (for sandbags) etc., on an as-required basis during a flood event.

Under B8.1(i) of the Materials Management Policy, the Chief Administrative Officer has the delegated authority to approve single source negotiations in the case of an ‘emergency’, up to the sum of $5,000,000.00. An ‘emergency’ is defined under the Materials Management Policy and Trade Agreements as an event that is unforeseeable and creates an immediate and serious need. As yearly spring flooding in Winnipeg is not unforeseeable, the delegation under B8.1(i) of the Materials Management Policy does not apply, and the Executive Policy Committee would need to approve flood related single source negotiations. There likely will not be time to seek approval from Executive Policy Committee for such single source procurements without impacting the City’s ability to respond to the 2019 flood event. Approval by Council of the Recommendation of this Report will delegate authority to the Chief Administrative Officer to approve all flood of 2019 related single source purchases, allowing the Public Administration to respond to the flood in a timely manner.

FINANCIAL IMPACT

Financial Impact Statement **Date:** April 5, 2019

Project Name:
Delegation of Single Source Negotiation Authority to the Chief Administrative Officer for Spring Flood 2019

COMMENTS:

There is no financial impact associated with the delegation of authority recommended in this report.

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

CONSULTATION

This Report has been prepared in consultation with:
Materials Management
Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

SUBMITTED BY

Department: Corporate Finance
Division: Campus Finance
Prepared by: T. Yanchishyn
Date: April 5, 2019