Agenda – Council – September 22, 2022

Report – Executive Policy Committee – September 14, 2022

Item No. 10 Amendment to the Materials Management Policy F1-003

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 14, 2022, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That a revision to the Materials Management Policy, attached as *Amendment to the Materials Management Policy*, be approved, to become effective upon 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 – September 14, 2022

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 14, 2022, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: **AMENDMENT 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	C. Kloepfer	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

The amendment to the Materials Management Policy (Policy) is recommended to provide the Public Service with the ability to debar persons (e.g. contractors) with multiple offences for longer periods than currently allowed under the Policy. Debarment is further defined in History.

The recommended amendment to the Policy will revise the authority to the Chief Administrative Officer (CAO) to debar any person who has repeat instances of violations as set out in B7.2 of the Policy.

RECOMMENDATIONS

1. That Council approve a revision to the Materials Management Policy, attached as *Amendment to the Materials Management Policy*, to become effective upon 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

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

IMPLICATIONS OF THE RECOMMENDATIONS

The proposed revision to the Policy will provide the City of Winnipeg with more options in dealing with repeat instances of offending persons.

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.

All delegations of authority to the Winnipeg Public Service, pursuant to the Policy, are through the Chief Administrative Officer (CAO). This is consistent with the City Organization By-Law No. 7100/97.

> *Debarment is a process by which a person (contractor, individual, or other entity) is prohibited from submitting a bid, having a bid considered or acting as a contractor, subcontractor or supplier during a period of time specified in a debarment order.*

The proposed amendment to debar persons with multiple offences for longer periods than currently allowed under the Policy provides the Chief Administrative Officer (CAO) the authority to debar any person who has repeat instances of violations as set out in B7.2 of the Policy.

B7.2 Causes of debarment include:

(a) conviction for a criminal offence of a person or a director or officer of such person relating to obtaining or attempting to obtain by the person of a contract or subcontract, or indicating a lack of business integrity or honesty which directly and seriously affects the responsibility of the person, or arising out of the submission of bids, proposals or other like procedures; or

(b) serious breach of contract indicating an unwillingness or inability to perform a contract in accordance with the terms and conditions or in accordance with the specifications, or a record of unsatisfactory performance of one or more contracts in accordance with the terms and conditions thereof, or in accordance with its specifications; or

(c) the breach of any ethical standard set out in Section B6.

The process of recommending a debarment is consistent and applied similarly in every case. All persons are treated equally in the process. In some cases, the behaviour and questions surrounding workmanship and compliance, that lead to previous debarments, have not been corrected.

Time spent administering this process ties up the resources of departments and the causes of debarment often hurt the City's reputation.

The City does not enter into this process without evidence to support the proposed debarment and the process includes concurrence with Legal Services.

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

Current B7.1	Proposed revision to B7.1
B7.1 Upon reasonable notice in writing to the person involved and after a reasonable opportunity for that person to make representations in opposition to a recommendation of suspension or debarment, the Chief Administrative Officer may: (a) if there is probable cause to believe that the person has engaged in any activity which might reasonably lead to debarment, suspend that person for a period not exceeding six months from participating in a solicitation, acting as a contractor, or acting as a subcontractor; or (b) if there is sufficient cause, debar a person for a period not exceeding three years from participating in a solicitation, acting as a contractor, or acting as a subcontractor.	*Revise B7.1 to read:* B7.1 If there is sufficient cause to believe that the person has engaged in any activity as set out in B7.2, upon reasonable notice in writing to the person involved and after a reasonable opportunity for that person to make representations in opposition to a recommendation of suspension or debarment, the Chief Administrative Officer may, with due consideration, make an order to: (a) suspend that person for a period not exceeding six months; or (b) debar a person: (i) upon a first instance, for a period not exceeding three years; (ii) upon a second instance, for a period not exceeding five years; (iii) upon a third or subsequent instance, for a period not exceeding ten years from participating in a solicitation, acting as a contractor, or subcontractor or supplier to any person who is awarded a contract by the City of Winnipeg.

FINANCIAL IMPACT

Financial Impact Statement

Date: August 8, 2022

Project Name:

AMENDMENT TO THE MATERIALS MANAGEMENT POLICY F1-003

COMMENTS:

There are no incremental financial impact to the recommendations of this report.

(Approved by F. Dela Cruz for J. Peters)
Jocelyn Peters, CPA, CGA
Manager of Finance & Administration (Campus)

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

SUBMITTED BY

Department: Corporate Finance
Division: Materials Management
Prepared by: Barb D'Avignon
Date: August 8, 2022
File No.: N/A

Attachment:

Amendment to the Materials Management Policy No. F1-003

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:

The proposed amendment provides the Chief Administrative Officer (CAO) the authority to debar any person/contractor who has repeat instances of violations as set out in B7.2 of the Policy. Debarring a person/contractor for 3 years has proven to not be in the City's best interest as the person/contractor returns to work for the City and continues to accrue offences.

2. Amendment to Materials Management Policy

B7. Suspension and Debarment

Repeal section B7.1 which reads:

B7.1 Upon reasonable notice in writing to the person involved and after a reasonable opportunity for that person to make representations in opposition to a recommendation of suspension or debarment, the Chief Administrative Officer may:

(a) if there is probable cause to believe that the person has engaged in any activity which might reasonably lead to debarment, suspend that person for a period not exceeding six months from participating in a solicitation, acting as a contractor, or acting as a subcontractor; or

(b) if there is sufficient cause, debar a person for a period not exceeding three years from participating in a solicitation, acting as a contractor, or acting as a subcontractor.

Replace B7.1 with:

B7.1 If there is sufficient cause to believe that the person has engaged in any activity as set out in B7.2, upon reasonable notice in writing to the person involved and after a reasonable opportunity for that person to make representations in opposition to a recommendation of suspension or debarment, the Chief Administrative Officer may, with due consideration, make an order to:

(a) suspend that person for a period not exceeding six months; or

(b) debar a person:

(i) upon a first instance, for a period not exceeding three years;

(ii) upon a second instance, for a period not exceeding five years;

(iii) upon a third or subsequent instance, for a period not exceeding ten years

from participating in a solicitation, acting as a contractor, or subcontractor or supplier to any person who is awarded a contract by the City of Winnipeg.