Minutes – Executive Policy Committee – December 5, 2023

Report – Standing Policy Committee on Public Works – November 21, 2023

Item No. 5 Revised Delegation of Authority for Award and Over-Expenditures of Any Public Works Regional and Local Street Renewal and Bridge Contracts Exceeding $5,000,000 Up to $10,000,000

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Public Works and submitted the following to Council:

1. That, subject to projects and programs being approved in the Capital Budget, that authority be delegated to the Chief Administrative Officer to award, and approve, and that the City enter into, execute and deliver competitively tendered Public Works Regional and Local Street Renewal and Bridge construction contracts awarded for the 2024 construction season, up to $10,000,000, and any such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements") within the Council-Approved Budgets, or as a result of a first charge against the General Capital Fund.

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the contracts set out in Recommendation 1 and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

3. That authority be delegated to the Chief Administrative Officer to approve over expenditures on the construction contracts awarded by the Chief Administrative Officer as a result of Recommendation 1, where the accumulated amount for each contract, including over expenditures, does not exceed $10,000,000, provided that there are sufficient funds within the Council-approved project or program.

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

Report – Standing Policy Committee on Public Works – November 21, 2023

DECISION MAKING HISTORY:

Moved by Councillor Lukes,

That the recommendation of the Standing Policy Committee on Public Works be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On November 21, 2023, the Standing Policy Committee on Public Works concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Delete Recommendation 3 in its entirety and replace with the following:

    "3. That authority be delegated to the Chief Administrative Officer to approve over expenditures on the construction contracts awarded by the Chief Administrative Officer as a result of Recommendation 1, where the accumulated amount for each contract, including over expenditures, does not exceed $10,000,000, provided that there are sufficient funds within the Council-approved project or program."

and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Delegation of Authority for Award and Over-Expenditures in 2024 of Any Public Works Regional and Local Street Renewal and Bridge Contracts Exceeding $5,000,000 Up to $10,000,000 Including Multi-Year Contracts within Council Approved Budgets – MM Ref No. 855-2023

Critical Path: Standing Policy Committee on Public Works – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Neirinck	J. Berezowsky	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

The Public Service is recommending that the Chief Administrative Officer be delegated authority to award and authorize over-expenditures on any Public Works Regional and Local Street Renewal and Bridge construction contract for the 2024 construction season exceeding the current Council delegated authority (currently $5,000,000), up to $10,000,000, provided that the awards and over-expenditures are within the Council-approved budgets for the project or program.

Inflation and increases in capital construction funding have resulted in larger-valued contracts than in the past. The current administrative process to award contracts is time-consuming when trying to deliver higher volumes of road construction work in a timely manner. This process, coupled with the current $5,000,000 delegated authority results in street renewal contracts not being bundled in the most efficient manner.

The Public Service is currently conducting a thorough review of existing delegated authority regarding contract awards and over-expenditure authorizations and a final report is expected in July 2024. The Recommendations of this report are intended as a temporary measure until this comprehensive report is ready for Council consideration.

RECOMMENDATIONS

1. That, subject to projects and programs being approved in the Capital Budget, that authority be delegated to the Chief Administrative Officer to award, and approve, and that the City enter into, execute and deliver competitively tendered Public Works Regional and Local Street Renewal and Bridge construction contracts awarded for the 2024 construction season, up to $10,000,000, and any such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”) within the Council-Approved Budgets, or as a result of a first charge against the General Capital Fund.

2. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the contracts set out in Recommendation 1 and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

3. That authority be delegated to the Chief Administrative Officer to approve over expenditures on the construction contracts awarded by the Chief Administrative Officer as a result of Recommendation 1, up to $10,000,000, provided that there are sufficient funds within the Council-approved project or program.

4. 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

Pursuant to B8.2 of the City of Winnipeg's Materials Management Policy, the Chief Administrative Officer is delegated the authority to award a contract where the value of the contract does not exceed $5,000,000.

Council has the authority to delegate additional authority to the Chief Administrative Officer in accordance with The City of Winnipeg Charter.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no immediate implications to the Recommendations of this report. The purpose of the Recommendations is to expedite the award process for construction contracts expected to exceed $5,000,000, and to delegate the authority to approve over-expenditures to the same delegated limits.

Approval of this report will increase the Chief Administrative Officer's authority to award construction contracts for the 2024 construction season up to $10,000,000, provided the work is competitively tendered and approved budgets are in place.

Approval of this report will increase the Chief Administrative Officer's authority to approve over expenditures on construction contracts for the 2024 construction season up to $10,000,000 (including contract value), provided the work was competitively tendered and approved budget is in place.

HISTORY/DISCUSSION

On November 20, 2013, Council passed the following motion, amending the City's Materials Management Policy:

1. *That clauses B8.2 (a) and (b) of the Materials Management Policy be revised to establish the Chief Administrative Officer's authority to award contracts up to and including $5 million.*

The adoption of this amendment reduced the authority of the Public Service to award contracts from $10,000,000 to $5,000,000 where funding had been confirmed to have sufficient funding in an approved budget.

The Materials Management Policy was amended further on January 28, 2015, July 19, 2018, December 12, 2019 and September 22, 2022, but the delegation within B8.2(a) and (b) was not impacted by those amendments.

In the accompanying report, presented to Council on November 20, 2013, the following statement was provided under “Implications of the Recommendations”

> *Based on past experience, it is anticipated very few additional contract awards will require the approval of the appropriate Standing Policy Committee. This is a manageable amount that should not have significant implications to program delivery.*

Increases in inflation, combined with increases in capital construction funding, have resulted in larger-valued contracts than in the past, in order to deliver the construction work efficiently.

According to Statistics Canada, total transportation engineering construction inflation for municipalities in Manitoba has increased by 34.3 percent between 2013 and 2022.

In 2023, the Public Service has tracked 2023 tender pricing against similar average 2022 tender pricing for street renewal costs. This analysis has identified 2023 price escalation of approximately 26 percent, on average, over 2022 pricing based on similar unit cost items. Factors for cost increases include price increases for materials, equipment, and labour.

Based on the above noted inflation and 2023 pricing, a $5,000,000 contract value in 2013 would equate to approximately $8,500,000 in 2023.

Generally, street renewal locations, including some regional street renewals, are bundled into tenders with multiple locations in order to create efficient, economy-of-scale tenders. In addition to pricing efficiencies, larger bundles of street renewals within tenders allow Contractors and Contract Administrators to plan resources more efficiently.

Contract values are also growing due to scope increases that often occur by adding Water and Waste Department and Manitoba Hydro work into street renewal contracts, for improved delivery efficiency.

Watermain renewal and sewer repair works have been added to many street renewal contracts in order to streamline construction schedules and reduce risk that occurs from separate contracts.

Although cost apportionment for street lighting with Manitoba Hydro has not changed, increasingly, the City is taking on portions of the street lighting installations within street renewal contracts instead of the work being undertaken by Manitoba Hydro crews or their contractors due to their workload. Often this requirement, and its estimated value is not known until late in the project design stages.

The road construction season is only approximately six months in duration as a result of weather and ground conditions. Generally, construction commences in early to mid-May

depending on frozen ground conditions and ends in late October to mid-November. Therefore, it is critical to award construction contracts in a timely manner.

Construction contract awards are an administratively complex and time-consuming process. After tenders close due-diligence measures to award a construction contract include:

- Bids are evaluated and determined if they are complete.
- The Bidders' qualifications are reviewed.
- A pre-award meeting is held with the recommended bidder to ensure they understand the intent of work and have the necessary resources to complete the work.
- The Contract Administrator recommends a Bidder for award.
- A draft award report is prepared and circulated to Materials Management, Legal Services and other Departments for concurrence (e.g. Water and Waste Department for their work within the Contract and their resulting financial contributions to the project).
- A Financial Impact Statement is prepared verifying funds are available to award and execute the project.
- Various administrative approval depending on the award authority for the project (i.e. Director of Public Works, Chief Financial Officer and/or Chief Administrative Officer).

The above process can take anywhere from two to six weeks depending on the complexity of the project and workloads of the Public Service.

For projects where the award authority is the Standing Policy Committee on Public Works (SPCPW), an additional four to eight weeks is required for a report to appear on the public agenda of a scheduled SPCPW meeting. Often these reports have to be rushed to make a certain meeting so the contract can be awarded without delaying the construction schedule.

While special SPCPW meetings may be called at the Mayor's discretion, they are difficult to get approved as well as coordinate and arrange with the Committee members schedules. The majority of contracts need to be approved between April and June after the Capital Budget is approved. Multiple special meetings would likely be required in order to avoid delays.

Therefore, in order to reduce the risk of contract delay, the Public Service has historically tried to bundle projects so the contract awards are within administrative delegated authority which, based on inflation, are progressively getting smaller.

Alternatively, the Public Service have prepared administrative reports to acquire delegated authority on specific projects ahead of tendering. However, due to the timing of these reports the Public Service often do not have the design complete, nor a pre-tender estimate to determine/verify the correct delegated authority requirement.

The below table identifies the number of street renewal contracts and number exceeding the current or proposed delegated limits of $5,000,000 and $10,000,000 between 2019 and 2023.

	2019	2020	2021	2022	2023
Construction Contracts	21	27	30	26	30
Contracts exceeding $5M	1	6	5	8	10
Contracts exceeding $10M	1	1	0	2	0

For contract over-expenditures, where the delegated authority is SPCPW, similar additional timelines are required to bring the over-expenditure report to a public agenda thus delaying payment to the Contractor.

The Public Service is currently conducting a thorough review of existing delegated authority regarding contract awards and over-expenditure authorizations and a final report is expected in July 2024. The Recommendations of this report are intended as a temporary measure until this comprehensive report is ready for Council consideration.

FINANCIAL IMPACT

Financial Impact Statement **Date:** October 25, 2023

Project Name:

Delegation of Authority for Award and Over-Expenditures in 2024 of Any Public Works Regional and Local Street Renewal and Bridge Contracts Exceeding $5,000,000 Up to $10,000,000 Including Multi-Year Contracts within Council Approved Budgets – MM Ref No. 855-2023

COMMENTS:

There is no financial impact associated with the recommendations in this report at this time.

Financial impacts will occur upon award of contract and approval of contract over-expenditures, if required. All contracts will be competitively tendered following the City's Materials Management Policy. The delegations in the report only apply to competitively tendered construction contracts and only allow the CAO to award and approve over-expenditures if sufficient budgets have been authorized by Council.

J. Ruby, 2023-10-26

J. Ruby, CPA, CA
Manager of Finance & Administration

CONSULTATION

This Report has been prepared in consultation with:

- Economic Research Branch

OURWINNIPEG POLICY ALIGNMENT

1.3 Integrated Service Planning and Outcomes
1.4 Integrated Knowledge and Resources
1.21 Strategic Procurement

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Climate Action Plan (CAP), and it was determined that the CAP is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Poverty Reduction Strategy (PRS) and its Goals and Objectives, and it was determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department: Public Works
Division: Engineering
Prepared by: B.A. Neirinck, P.Eng., M.N. Stainton, P.Eng.
Date: October 27, 2023