



Report to Council

Department: Corporate Services

Division: Finance and Business Services

Date: February 22, 2022

Prepared by: Jackson Tang, Assistant Manager, Business Services

Report Number: Finance and Business Services-2022-05

Subject: Procurement Bylaw – Revisions to the Procurement Principles, Procedures, Thresholds and Authorizations

Number of Pages: 7

Recommendation(s)

That Finance and Business Services Report 2022-05 entitled Procurement Bylaw – Revisions to the Procurement Principles, Procedures, Thresholds and Authorizations prepared by Jackson Tang, Assistant Manager, Business Services dated February 22, 2022, be received; and

That By-Law 2129 being a by-law to adopt a policy for the procurement and disposal of goods and services, be read a first, a second time and be provisionally adopted on February 22, 2022.

Purpose

Section 270.1 of the Municipal Act 2001 identifies that a municipality shall adopt and maintain policies and procedures with respect to its procurement of goods and services. These policies and procedures should be reviewed periodically to identify improvements in accountability, transparency, efficiency, and sustainability. Council approval is required to repeal and enact bylaws. This report recommends Council repeal the existing Procurement

Bylaw 1043 and enactment of a new Procurement Bylaw 2129, to incorporate the principles, procedures, thresholds, and authorizations set out in this report in accordance with Section 270.1 of the Municipal Act, 2001.

Background and Discussion

The Town of Essex's existing policy for Procurement and Disposal of Goods and Services was last updated in April 2015. The Procurement Bylaw amendments which were approved by Council in April 2015, were focused on procurement thresholds and authorizations. Since adoption, staff have generated continuous feedback regarding the procurement methods, procedures, and thresholds in dealing with acquiring different goods and services. In the time since the Procurement Bylaw was reviewed in 2015, several trade agreements have come into effect including the Canadian Free Trade Agreement (CFTA), the Canada-European Comprehensive Economic and Trade Agreement (CETA). One of the main goals of the trade agreements is to ensure government procurement activities, more than certain prescribed thresholds, are conducted in a non-discriminatory, impartial, transparent, and accountable manner. The changes of both internal and external environments have resulted in a need to complete a substantive review to identify opportunities to improve processes, to create more fairness and transparency in procurements and to strengthen compliance with current regulations, while also enabling more flexibility and the ability to better support the local economy.

Methodology

The proposed new Procurement Bylaw 2129 is based on an extensive research process which covered both external and internal review.

External research included the review of relevant trade agreements, broader public sector procurement directive, procurement thresholds of neighboring municipalities, Ontario Professional Buyers Association, Windsor Construction Association, and some existing contractors.

Internal research included internal data analysis of the number of invoices processed, the respective amounts spent in different procurement thresholds during the past five years, and consultations with internal stakeholders regarding the effectiveness and efficiency of the existing procurement process and methods.

Summary of Findings

1. A comparison of Procurement Thresholds with neighboring municipalities and the relevant trade agreements figured out that our existing procurement thresholds should be revised to ensure the effectiveness and increase the efficiency of the procurement process (see Attachment 1 – Procurement Threshold Comparison).
2. Increasing the threshold of low value purchase from 0 - \$5,000 to 0 - \$10,000 is the most effective incremental expansion and in line with most neighboring municipalities. (See Attachment 2- 5 Year Trend for Low Value Purchase)
3. According to the five year (2017 to 2021) internal data analysis, there is a potential reduction of workload in carrying out procurement process by increasing the dollar thresholds for goods and services. This reduction is a result of fewer purchases requiring formal procurement methods such as a Request for Tender or Proposal. (\$10,001 - \$50,000 with an average decrease of 37.8%, \$50,001 - \$120,000 with an average decrease of 70.59%, and above \$120,000 with an average decrease of 65.41%) (see Attachment 3).
4. Over ten million dollars per year can potentially be contributed to support local economy (See Attachment 4) through low value purchase (0 - \$5,000) and informal competitive bidding process (\$10,000 - \$50,000).
5. Interviews with Directors and Managers of different departments have clearly specified that the existing informal competitive bidding (\$5,000 to \$15,000 – three quotations) is often proving difficult to obtain three qualified suppliers to submit quotations due to the unattractive small value. The procurement process is often delayed for those purchases between \$5,000 to \$15,000. Administrative efforts spent cannot be

counteracted by the small savings noted through informal competitive bidding.

6. Most comments received from our existing general contractors and Windsor Construction Association concern the timing of our tendering exercise in contrast to their challenge of construction material price fluctuations as well as the shortage of supply due to the pandemic. A shorter time frame from tender closing to tender award would be beneficial for the successful contractors to firm up their purchase orders for the construction materials required for projects which are experiencing the volatile price fluctuations.

Recommendations

As a result of the above findings including the consideration of inflationary trends, Finance and Business Services has revised the existing Procurement Bylaw 1043. The summary of differences between existing Bylaw and proposed new Bylaw are as follows: -

Elements Remaining the Same
1. Many provisions remain unchanged, as efforts were made to preserve as much of existing language as possible. Wordings requiring additional clarity have been redrafted and highlighted in red color (see attached New Procurement Bylaw 2129).

Key Bylaw Changes
<ol style="list-style-type: none">1. The Town's current thresholds need to be revised to improve efficiencies in the procurement process, by reducing staff time spent low value purchase competitive bidding, creating, approving, and matching Purchase Orders (see Attachment 1).2. A new procurement principle has been added to the new Procurement Bylaw (see Section 2.11 – Procurement Principles and Goals). This new principle promotes the social value including support local economy whenever making a purchase, to the extent that it is legally permitted.

3. Internal awareness would be brought to staff that supporting local economy is one of the factors to be considered apart from quality, price, time, and service level, etc. whenever making a low value purchase o - \$10,000 (see Section 9.02 b. Procurement Methods of new Procurement Bylaw 2129).
4. Local suppliers should be more inclusive. Departments should utilize the informal Request for Quotation/Request for Proposal (i.e., \$10,000 - \$50,000, three quotations) process to include at least one local supplier where possible (see Section 9.02 e. Procurement Methods of new Procurement Bylaw 2129).
5. Increasing the authority limits to Chief Administrative Officer for construction projects up to \$300,000, which is consistent with the Threshold of Canadian Free Trade Agreement (CFTA) – see Attachment 5, can speed up the post-tender contractual award process for small and some medium construction projects and cultivate positive relationships with the general contractors.
6. Emergency Purchase - to ensure the consistency of the authority to approve purchases under new Procurement Thresholds and to allow more flexibility to CAO to manage the emergency situations, the authorized dollar value for CAO should be increased from \$10,000 to \$120,000 under emergency situations. For values above \$120,000, an information report is required to submit to Council with full details concerning the circumstances under which the purchase was made (see Section 11.00 Emergency Purchases of new Procurement Bylaw 2129).
7. To ensure openness, accountability, and transparency,
 - a) Section 8.0 Conflict of Interest has been further elaborated upon to assist all members of Town of Essex to recognize possible and/or perceived conflict of interest situations so that they can, in good faith, take the initiative to disclose, manage and resolve such situations (see Section 8.01 e), f), 8.06 and 8.07.
 - b) Section 7.04 b), iii) Prescribed Council Approval has been added to have more effective control to the increased procurement thresholds: - Council Approval is required if the contract is not being awarded to the lowest bid that has met the specifications and terms and conditions of the Request for Quotation or Request

for Tender (i.e., purchase value above \$50,000).

Implementation

With the Council approval, the new Procurement Bylaw 2129 will become effective on March 07, 2022. Finance and Business Services will revise and provide the standard templates for informal competitive bidding exercises and provide necessary training for staff in early of March 2022 or before to ensure the changes, particularly those providing the potential to support local economy, are understood.

Financial Impact

Although there are no financial implications from this report, a substantial staff time savings is anticipated as well as a positive effect on the timeliness of the procurement process. The staff time savings can enable departments to better focus on more financially significant expenditures or other more value-added administrative work.

Consultations

Katelynn Giurissevich, Director, Corporate Services/Treasurer

Doug Sweet, Chief Administrative Officer

Attachments

Attachment 1 – Procurement Threshold Comparison

Attachment 2 – Five Year Trend for Low Value Purchase

Attachment 3 – Change of Workload

Attachment 4 – Potential Contribution

Attachment 5 – Thresholds of Canadian Free Trade Agreement (CFTA) and Canada-European Union Comprehensive and Economic Trade Agreement (CETA)

Attachment 6 – Procurement Bylaw 2129

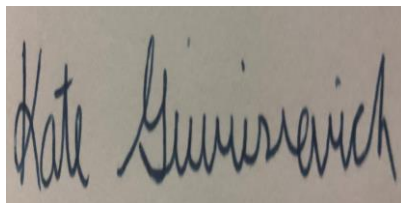
Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☒ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☐ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☒ Improve the Town's capacity to meet the ongoing and future service needs of its citizens while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.

Report Approval Details

Document Title:	Procurement Bylaw Revisions - Finance and Business Services-2022-05.docx
Attachments:	<ul style="list-style-type: none">- Attachment 1 - Procurement Threshold Comparison.pdf- Attachment 2 - Five Year Trend for Low Value Purchase.pdf- Attachment 3 - Change of Workload.pdf- Attachment 4 - Potential Contribution.pdf- Attachment 5 -Thresholds of CFTA and CETA.pdf- Attachment 6 - Procurement Bylaw 2129.pdf
Final Approval Date:	Feb 16, 2022

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in blue ink that reads "Kate Giurissevich". The signature is written in a cursive style.

Kate Giurissevich, Director, Corporate Services - Feb 16, 2022 - 9:20 AM

A handwritten signature in black ink that reads "Doug Sweet". The signature is written in a cursive style.

Doug Sweet, Chief Administrative Officer - Feb 16, 2022 - 11:09 AM