Presentations and Delegations

Request for Recommendation Priorities Committee



Type of Decision												
Meeting Date		Apri	5th, 20	006			Report Date		March :	30th, 20	06	
Decision Requ	ested		Yes	х	No		Priority	:	High	х	Low	
		Dire	ection C	Only		$\ \ $	Type of	Х	Open		Closed	

Municipal Legislative Reform: Bill 53 (City of Toronto Act, 2005)

Report Title

Budget Impact & Policy Implication	Recommendation
This report has been reviewed by the Finance Division and the funding source has been identified.	
N/A	For information only
x Background Attached	Recommendation Continued
Recommended by the Department	Recommended by the C.A.O.
Caroline Halsworth, Executive Director	Mark Mieto
Administrative Support Services	Chief Administrative Officer

Date: March 30, 2006

Report Prepared By

Heather Salter / Deputy City Solicitor

Division Review

Page:

Rom Swiddle City/Solicitor

Background

Following a lengthy period of consultation and development Bill 53 the proposed City of Toronto Act, 2005 was introduced for First Reading in the Legislative Assembly on December 14, 2005. Second Reading was debated February 13 and 27, 2006.

The new legislation recognizes the City of Toronto as a democratically elected government that is capable of exercising its powers in a responsible and accountable fashion. If passed the *Municipal Act, 2001* will no longer apply to the City of Toronto.

It is anticipated that Bill 53 will be passed by the legislature this fall, following which a bill will be introduced to pass a new Municipal Act for all other municipalities in Ontario. The intent is that both Acts would come into effect in January, 2007. The extent to which the new Municipal Act mirrors Bill 53 is critical to all municipalities.

Following is a summary of the key highlights of the First Reading version of Bill 53.

General Powers

The Act recognizes that the Council of the City of Toronto is a democratically elected government which is responsible and accountable. This is to be contrasted with the existing *Municipal Act, 2001* which reminds municipalities that they are the creatures of the Province. The Act also includes expanded language defining the relationship between the City and the Province and the need for mutual respect, consultation and cooperation.

The purposes of the Act are "to create a framework of broad powers for the City which balances the interests of the Province and the City and which recognizes that the City must be able to do the following things in order to provide good government:

- 1. Determine what is in the public interest of the City.
- 2. Respond to the needs of the City.
- 3. Determine the appropriate structure for governing the City.
- 4. Ensure the City is accountable to the public and that the process for making decisions is transparent.
- 5. Determine the appropriate mechanisms for delivering municipal services in the City.
- 6. Determine the appropriate levels of municipal spending and municipal taxation for the City.
- 7. Use fiscal tools to support the activities of the City.

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This statement of general purposes is much broader than those in the current *Municipal Act,* 2001, and better reflects the role of municipal Councils.

The new Act represents a significant shift in the manner in which municipal authority is defined. Prior to January 1, 2003 municipalities were constrained by a prescriptive list of very narrowly defined powers and authorities. With the introduction of the *Municipal Act, 2001* which came into effect in 2003, the concept of "spheres of jurisdiction" was introduced. The new Municipal Act gave to municipalities more general powers provided they were exercised within ten specific areas of jurisdiction, or spheres. In addition some specific powers were also provided in the familiar prescriptive format. The new *Municipal Act, 2001* also gave municipalities "natural person powers", that is the capacity, rights, powers and privileges of a natural person, but only for the purposes of exercising its authority under the spheres of jurisdiction or other specific powers. Municipalities are specifically restricted from using their natural person powers to incorporate or manage a company, make grants or loans, impose taxes, fees or charges, or engage in various types of financial transactions such as borrowing except as expressly authorized.

The proposed City of Toronto Act does away with the concept of spheres of jurisdiction. Instead it provides broad permissive authority to the City to "provide any service or thing that the City considers necessary or desirable for the public" and to pass bylaws respecting the following matters:

- 1. Governance structure of the City and its local boards (<u>excluding</u> Boards of Health, Committee of Management for Home for the Aged, Police Services Boards, Library Boards or corporations created under the Act).
- 2. Accountability and transparency of the City and its operations and of its local boards (same exceptions as above).
- 3. Financial management of the City and its local boards (same exceptions a above).
- 4. Public assets of the City acquired for the purpose of exercising its authority under this or any other Act.
- 5. Economic, social and environment well-being of the City.
- 6. Health, safety and well-being of persons.
- 7. Services and things that the City is authorized to provide.
- 8. Protection of persons and property, including consumer protection.
- 9. Animals.
- 10. Structures including fences and signs.
- 11. Business licensing.

Compared to the language in the existing *Municipal Act*, 2001 the above list appears to significantly enlarge the scope of municipal bylaw making authority.

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A significant new addition in the Act is a broad power to delegate. The existing Municipal Act and its predecessors provide that the powers of the municipality shall be exercised by its council. There are few examples of specific authority to delegate powers to officers or employees of the corporation with the exception of statutory officers who derive some authority directly from statute. The courts have tended to interpret the power of municipalities to delegate authority very narrowly and have mostly restricted the areas of permissible delegation to powers which are purely administrative in nature. That is where the exercise of discretion and/or personal judgment is not required. The legislative and quasi-judicial powers of the municipality can only be delegated if that authority is specifically granted in the statute creating the power.

The proposed Act provides that the City of Toronto may delegate any of the City's powers and duties under that Act or any other Act to a person or other body subject only to the restrictions set out in the Act. This includes the power to pass bylaws. The Act sets out rules which would apply to delegations, such as the power of council to revoke the delegation without notice and to impose conditions and limits on the exercise of the delegated powers. The legislative or quasi-judicial powers of council could be delegated to individual members of council or committees of council or other bodies (excepting corporations created under the Act) which are composed of a majority of councillors or persons appointed by council; or to an individual who is an officer or agent of the City but in that case only if the power delegated is minor in nature. The legislative and quasi-judicial powers which can be delegated are those under the Act, the Planning Act and other Acts which may be prescribed by the Province.

Powers which cannot be delegated are the power to appoint or remove an officer whose appointment is required by the Act, the power to impose a tax or establish a tax ratio, the power to incorporate corporations, adopt an official plan or amendment, to pass a zoning bylaw, and adopt or amend a City budget. The Province has also provided that it may make further regulations restricting the powers and duties which may be delegated.

The expanded and clarified power to delegate both administrative functions and legislative and quasi-judicial powers and duties will significantly increase the options for corporate governance in the City of Toronto.

However, the proposed legislation also provides that the Province may if it considers "necessary or desirable in the <u>provincial</u> interest to do so" (note, not the <u>public</u> interest) make regulations which can limit or impose conditions on the broad general powers of the City. This is a very powerful tool available to the Province to quickly act to constrain the City should it choose to exercise any of its powers in a manner inconsistent with provincial objectives. Such a regulation would only remain in force for a period of up to eighteen months but within that time frame the Province could go through the lengthier process of amending the legislation.

There are some specific areas in which there are significant modifications to the limitations or procedural requirements currently in place. For example, the City is permitted to regulate and tow cars in disabled parking spaces in private lots and to impose administrative penalties for the failure to comply with parking bylaws. This latter authority is subject to a regulation being passed first.

In the area of economic development bonussing is still specifically prohibited. However, the power to create programs to encourage the establishment and initial growth of small businesses in the City, which programs are not subject to the bonussing prohibition, will be enhanced in Toronto

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because these programs will no longer require the prior approval of the Provincial cabinet. Similarly community improvement plans authorized under the Planning Act would not require Ministry approval.

The business licensing provisions of the Act are also significantly less prescriptive than the reciprocal provisions in the *Municipal Act, 2001*. The Act is also less restrictive in the area of retail closing bylaws.

In the area of land use planning, authority is provided to prohibit and regulate the demolition or conversion of residential rental housing; to regulate the minimum area of a parcel of land and the minimum height and density of development; site plan drawings could be required to show sustainable design elements such as street furniture, trees and waste receptacles on adjacent City highways and exterior design details; and zoning bylaws could impose conditions which are enforceable by agreements registered on title. The City could also create its own appeal body to hear appeals relating to minor variance and consent applications, in lieu of the Ontario Municipal Board.

Notwithstanding the broad grants of authority, however, the Province has also included substantial regulation making powers in the Act. These regulations may limit or alter the City's powers in the matters of toll highways, minimum standards of repair for highways and bridges, the imposition of administrative penalties, business licensing, closing of business premises, zoning bylaw conditions and the creation of land use planning appeal bodies.

Governance

The role of City Council as described in this Act is substantially the same as the reciprocal provisions of the *Municipal Act*, 2001. The additions to the role are the requirement to ensure "controllership policies, practices and procedures are in place" and to ensure the "accountability and transparency of the operations of the City, including the activities of the senior management of the City". Most likely these new responsibilities have been included to reflect the new requirements relating to accountability and transparency which are included in the Act.

Like the existing legislation the powers of the City must be exercised by city council, by bylaw, unless the City is specifically authorized to do otherwise.

The role of the mayor as head of council is unchanged, however a new section has been added defining the role of the mayor as chief executive officer. The provisions of the Act relating to changes to council size and manner of election, ward boundaries and the City's name are unchanged from the existing provisions in the *Municipal Act*, 2001.

The description of the role of officers and employees of the municipality, including the statutory officers: Clerk, Deputy Clerks, Treasurer, Deputy Treasurers, Auditor are unchanged.

The power to establish city boards, to assign functions to them and control their procedures and budgets is enhanced and clarified in the proposed Act. The equivalent term in the *Municipal Act, 2001* is a "municipal service board", however in comparing the provisions together with the expanded powers of delegation, the proposed Act would give greater autonomy and flexibility to city council to create new boards and to give a city board the control and management of any municipal services and activities that council considers appropriate. The proposed Act includes the additional provisions that a city board is a corporation, unless the city provides otherwise, and

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that a city board is an agent of the city, and a local board of the city for all purposes. These new provisions clarify the legal status of city boards, providing a clearer picture of their contractual powers, ability to own real and personal property, procedural requirements, the application of the *Municipal Conflict of Interest Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, and the exposure of board members and the city to liability for the activities undertaken by the board.

Note, that "city boards" are not to be confused with local boards such as the Police, Library, Conservation Authority and Health Unit boards which are created and governed by other statutes not city council; or with community development corporations; or with local housing corporations or municipal electrical utility corporations.

Under the existing *Municipal Act, 2001* the ability of a municipality to create corporations is significantly restricted. Neither the spheres of jurisdiction or natural person powers grant this authority, other than the authority to create community development corporations which can have only very limited objects. Municipalities cannot incorporate corporations, nominate or authorize others to act as an incorporators directors, officers or members of a corporation, exercise any power as a member of a corporation or acquire or hold a security interest in a corporation except in accordance with a regulation passed by the Province. That regulation is extremely prescriptive and narrowly limits the purposes for which corporations can be created, how they can operate and imposes significant procedural requirements prior to their creation.

The proposed Act purports to give the City of Toronto the broad authority to establish corporations and to delegate functions to them. However, this power is expressly subject to "such conditions and restrictions as may be prescribed". Therefore until such time as the Province indicates what regulations it intends to pass for that purpose it is not clear how broad this authority really is. Nevertheless, the intention to create broad authority in the Act subject only to specific "take aways" imposed by regulation is a significant improvement over the status quo.

The proposed Act introduces entirely new provisions related to accountability and transparency. There are no equivalent provisions in the *Municipal Act, 2001*. The City of Toronto would be required to establish a code of conduct and appoint an Integrity Commissioner, establish and maintain a lobbyist registry, and to appoint an Auditor General and an Ombudsman.

The Integrity Commissioner reports to city council and "is responsible for performing in an independent manner the functions assigned by city council with respect to the application of the code of conduct for members of council and with respect to the application of any other city bylaws and policies governing the ethical behaviour of members of council". The Act contemplates the Commissioner having both and advisory and an investigative role.

The proposed Act also creates the obligation for the City of Toronto to establish and maintain a system of registration of persons who lobby public office holders. "Public office holders" includes members of council and their staff, officers and employees of the city, members of a local board, their staff and officers, directors and employees (excluding Boards of Health, Committee of Management for Home for the Aged, Police Services Boards, Library Boards or corporations created under the Act). City council would define "lobby" and specify when and what information would have to be provided by lobbyists. This registry would be available for public inspection.

The City of Toronto is also required to appoint an Ombudsman who would report to city council and whose function would be to investigate any decision or recommendation made or any act done or omitted in the course of the administration of the City, its local boards (excluding Boards

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of Health, Committee of Management for Home for the Aged, Police Services Boards, Library Boards or corporations created under the Act), and such city-controlled corporations as city council may specify and affecting any person or body of persons in his, her or its personal capacity.

The only decisions, recommendations, acts or omissions which appear to fall outside of the Ombudsman's potential scope of review are those in respect of which there is a statutory right of appeal or review, on the merits, to a court or tribunal, until that right has been exercised or expired. The decisions, recommendations, acts or omissions of any person acting as a legal advisor or acting as counsel in relation to a proceeding also cannot be reviewed by the Ombudsman.

The Act further provides for the appointment of an Auditor General who reports to city council. This position is distinct from the City Auditor appointed under the Act to conduct an annual audit of the City's accounts. The new position of Auditor General reports to city council and is responsible for assisting city council in holding itself and city administrators accountable for the quality of stewardship over public funds and for achievement of value for money in city operations.

The specific powers and duties of the Auditor General are to be assigned by city council and can be extended to review the activities of local board's (<u>excluding</u> Boards of Health, Committee of Management for Home for the Aged, Police Services Boards, Library Boards or corporations created under the Act) and such city-controlled corporations and grant recipients as city council may specify.

Notwithstanding the requests for reform from AMO and many municipalities, the existing restrictions related to open public meetings are repeated in the proposed Act.

A new provision would permit council, with the consent of the head of council, to designate another member other than the head of council to preside at meetings of city council.

An important new addition is the ability to provide for electronic participation in meetings. The City's procedure bylaw could establish procedures which would permit a member of council to participate in meetings electronically, with the only statutory restriction being that the member could not be counted in the quorum for the meeting. This section however would not apply to meetings of police services or public library boards.

The other significant change is a requirement for the City to adopt and maintain policies with respect to:

- 1. The sale and other disposition of land;
- 2. Its hiring of employees;
- 3. Its procurement of goods and services;
- 4. The circumstances in which the City shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given;
- 5. The manner in which the City will try to ensure that it is accountable to the public for its actions, and the manner in which the City will try to ensure that its actions are transparent to the public;
- 6. The manner in which the City will try to ensure that the rights, including property and civil rights, of persons affected by its decisions re dealt with fairly;
- 7. The delegation of its powers and duties; and

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8. The financing of capital works, including the limits on the annual costs associated with the financing.

The first four subject areas above are all currently included in the Municipal Act but in a far more prescriptive manner. Specific procedures and requirements are stipulated for policies in relation to all of those activities. In particular the existing legislation prescribes many specific notice periods with which municipalities must comply. Under the new legislation the City of Toronto will be able to determine when and if it will give notice and to whom, not only the manner and form of that notice. The new policies required as numbers 5, 6 and 7 above are likely to be broad statements of principles addressing fairness and accountability. The last new policy pertains to financial accountability, specifically as it relates to long term financing arrangements.

Local boards (excluding Police Services Boards, local housing corporations and others prescribed by Minister) will be required to adopt policies pertaining to the first three subject areas only.

Financial Administration

The Act expressly provides that the City may approve multi - year operating budgets, up to five years provided the City reviews and re-adopts them annually. There is no clear authority in the existing Act to do this, although it is a common practice in many municipalities for both operating and capital budgets.

The new Act drops the authority of the Minister to require any particular detail or format for the budget. Whereas municipalities can now compel local boards to submit their budgets to the municipality on or before March 01 each year, the new Act leaves the date at the discretion of the City.

The City of Toronto is still required to report to the Minister with regard to the efficiency and effectiveness of municipal operations and the operations of its boards, however the requirement in the existing Act to make an annual report to the public on improvements in efficiencies and effectiveness or barriers to achieving them, has been eliminated. Also eliminated are the *Municipal Act, 2001* provisions which allow the Minister to designate matters related to the efficiency and effectiveness of the municipality's operations for which the municipality must establish objectives and standards and which may be reviewed or audited by the Minister.

The *Municipal Act, 2001* provides that a municipality's natural person powers do not include the ability to borrow, invest, sell debt, incur debt without borrowing or enter into financial agreements. The new Toronto Act eliminates those exclusions, however those activities must be undertaken in accordance with any prescribed conditions or restrictions. The existing Act by contrast includes a prescriptive list of investment and borrowing powers and in addition, regulations further restrain the financial powers of municipalities. Therefore, the true extent of the City of Toronto's powers in this area cannot be measured until the relevant regulations are produced and can be compared to the existing Municipal Act limitations.

In the matter of debentures and other long term borrowing there are favourable wording changes which increase the discretion of the City. For example, restrictions on the use of monies raised from one debenture for other capital expenditures are eliminated and the use of amounts raised for a sinking or retirement fund can be applied to current or other expenditures with the consent of the auditor.

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The ability of the City and its local boards to charge fees and charges for services or activities provided or done by it, or for the use of its property is expanded and clarified in the new Act. Under the existing *Municipal Act, 2001* the authority to charge fees is not a natural person power and is therefore limited to the specific enabling provisions of the Act and further restricted by regulation. In the new Act Toronto is authorized to pass bylaws imposing fees pursuant to its broad grant of authority and natural person power, with only limited restrictions in the Act. The effect of this change is to broaden the flexibility of this power. However, the Province has also given the Minister extensive regulation making authority to limit the power of the City to impose fees and charges. Under the existing Act many of the restrictions in this area are imposed by regulation. Again, the real scope of the City's powers will only be clear once Province indicates what regulations it intends to make.

The new Act clarifies that the costs included in a fee or charge may include those related to administration, enforcement, and the establishment, acquisition and replacement of capital assets. It also provides that in the event of conflict with any other part of the Act or any other Act the bylaw passed under this Part prevails. Further a fee or charge may be imposed regardless if the service to which it relates is mandatory. Under the existing *Municipal Act, 2001* the municipality is required to maintain a publically available list of all user fees and charges. This requirement is deleted in the new Act. Also eliminated are the detailed requirements which specified the contents of fees and charges bylaws.

Power to Impose New Taxes

The most anticipated provisions of the proposed Act for the City of Toronto were those introducing powers to provide new revenue generating options. The Act does grant Toronto authority to impose new taxes. This broad authority is however, significantly limited by a lengthy list of exclusions, including income tax, wealth tax, sales tax, hotel tax, a tax on energy consumption, gas tax, poll tax and a tax on the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources, or a tax on the use of a highway. The City is specifically permitted to impose taxes on alcohol, entertainment and tobacco.

Unlike traditional property taxes, taxes imposed by this Part would not receive priority lien status and could not be added to the tax roll. The Crown, its agencies, boards, commissions and corporations, school boards, colleges, hospitals, nursing homes and other prescribed persons or entities would not be subject to a tax under this Part.

In addition to the restrictions described above the Province may make regulations further limiting the City's authority.

Traditional Municipal Taxes

Bill 53 incorporates substantially the same provisions related to property taxes as the *Municipal Act*, 2001. Some provisions have been altered slightly to clarify and provide somewhat more flexibility. A key change is the ability to write of taxes as uncollectible without the necessity of first having a tax sale, when recommended by the Treasurer. The City would also have the ability to impose area rates for any service identified in a bylaw. However the Minister has extensive power to introduce regulations which could restrict that broad authority, similar to the existing regulation under the *Municipal Act*, 2001 which establishes what services are eligible for area rating.

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Bylaw Enforcement

The City's ability to enforce bylaws would be strengthened in the new Act. Rather than being bound by the limits of the *Provincial Offences Act*, the City could establish a system of fines for offences under City bylaws. In addition bylaws could make it an offence for directors and officers of corporations to knowingly concur in the contravention of a municipal bylaw.

The powers of entry and inspection for bylaw enforcement officers are also expanded and clarified.

Conclusions

Bill 53 represents a significant step forward in the evolution of municipal powers in Ontario. It recognizes the need to provide City Councils with effective tools and authority to govern.

Although the City of Toronto has many unique challenges owing to its size and contribution to the Ontario economy, the more enabling legislative framework proposed in Bill 53 is necessary and desirable for all municipalities. The Province of Ontario has indicated that it intends to introduce a new Municipal Act for the balance of Ontario's municipalities in the fall of 2006. If the new Municipal Act is substantially similar to Bill 53 it would assist all municipalities to respond more effectively and with enhanced flexibility to the issues and concerns of their citizens.

Request for Recommendation **Priorities Committee**



Type of Decision									
Meeting Date	Ap	oril 5, 200)6	·	Report Date		March 31,	2006	
Decision Requeste	ed	Yes	×	No	Priority		High	Low	
	Dii	rection C	nly		Type of	×	Open	Closed	

Report Title

PRESENTATIONS REGARDING THE PURCHASING BY-LAW, PURCHASING CARD PROGRAM
AND THE BELLAMY REPORT

AND THE BELLAMY REPORT							
Budget Impact & Policy Implication	Recommendation						
This report has been reviewed by the Finance Division and the funding source has been identified.							
	FOR INFORMATION ONLY						
✗ Background Attached	Recommendation Continued						
Recommended by the Department	Recommended by the C.A.O.						
Lorella Hayes Chief Financial Officer and Treasurer	Mark Mieto Chief Administrative Officer						

Title: Presentation regarding the Purchasing By-law, Purchasing Card Program & Bellamy Report Page:2

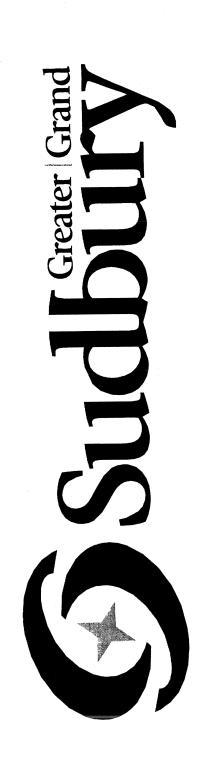
Date: March 31, 2006

Report Prepared By	Division Review
Name Darryl Mathe Title Manager of Supplies & Services/Purchasing Agent	

The attached presentations will be presented by Darryl Mathe, Manager of Supplies & Services/Purchasing Agent for the Members of the Priorities Committee:

Purchasing By-law 2003-300 Procurement Card Program The Bellamy Report

- 1) The Purchasing By-law 2003-300 became effective January 1st, 2004. The purpose of the presentation is to provide Council with information about the key requirements of this By-law.
- 2) In 2003, the City of Greater Sudbury implemented a Procurement Card system for approved employees. As procurement card, looks and feels like a credit card, except that it is issued at the Corporate level and is used for low value purchases. The procurement card is an efficient tool for end users to purchase those low value items without the costly paperwork and with the controls required.
- 3) In September, 2005 Madame Justice Bellamy issued her four volume 1,125 page report on the procurement practices at the City of Toronto. For your convenience, we have attached the main recommendations of her report.



Purchasing By-Law 2003-300, As Amended

Effective January 1st, 2004

Lowest Total Acquisition Cost The Definition of

limits, the CONTRACT amount shall be Where this By-law prescribes dollar the estimated TOTAL ACQUISITION COST less any rebates.

Lowest Total Acquisition Cost The Definition of

including purchase price, all taxes, warranties, local service costs, life cycle costs, time of completion or delivery, inventory, carry costs, operating & disposal evaluation of quality and service in the assessment of a bid & the sum of all costs costs for determining the Lowest Compliant "Total Acquisition Cost" means an



General Procurement Policy

Manager may purchase or contract for Goods & Subject to section 27 and section 4(3) a General Services listed in Schedule "A" to this By-law without following the procedures set out.

General Procurement Policy

- Schedule A contains goods and services
- Note: A complete listing of purchasing methods contained in Schedule "A" can by found in the City's Purchasing By-law
- Examples contained in schedule A are
- -Training and Education
- -Refundable Employee/Councillor Expenses
- -Employer's General Expenses
- -Professional and Special Services

General Procurement Policy... Continued

The procurement of legal services shall be contracted for by the City Solicitor and Director of Human Resources. The purchase of goods and services listed in Scheduled "A" to this By-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council Approved Budgets.

Restrictions!!

Restrictions set out in the Purchasing By-law are as follows:

divided into two or more parts to avoid the application of ➤No contract for Goods, Services or Construction may be the provisions of the By-law. ➤ No contract for Services shall be awarded where the services would result in the establishment of an employee employer relationship.

Restrictions!!

Goods, Services or Construction, except in accordance with ➤ No Employee shall purchase, on behalf of the CGS, any the Purchasing By-law.

Contract, either on his or her own behalf or while acting take steps outlined in further detail in the By-law to absolve ➤Where an employee involved in the award of any for, by, with or through another person, has any pecuniary interest, direct or indirect in the Contract the employee will themselves from potential By-law infractions.

Prescribed Council Approval

The following Contracts are subject to Council approval:

➤ Any contract requiring approval from the OMB



precludes the Award of a Contract to the ➤ Any Contract where an irregularity Supplier submitting the lowest bid;

Prescribed Council Approval.. Continued

Construction is available from only one source of > Any Contract where a Good, Service or supply and the Total Acquisition cost of such or where a Bid Solicitation has been restricted to Good, Service or Construction exceeds \$25,000; a single source of supply because standardization or compatibility is the overriding consideration;

Prescribed Council Approval Continued

- method of purchase of Goods, Services or Construction is being used and the estimated value of the Goods Services or Construction > Any contract where the Request for Proposal exceeds \$100,000.00;
- ➤ When any contract is required in accordance with the CGS's Financing Lease Policy

Notification of Procurement Opportunities

made by Electronic Advertising and may be Total Acquisition Cost of \$25,000 shall be Goods, Services or Construction exceeding a Notification of Procurement opportunities for used for any other purchase.

may also be supplemented by other means of Notification of procurement opportunities notification where and when appropriate.

Purchasing Procedures

purchasing procedures consistent with the purposes, goals and The Purchasing Agent establishes objectives set out in this by-law relating to: >the identification of those Goods, Services or effectively acquired Construction which are more through cooperative purchasing;

Purchasing Procedures

Continued...

signature by electronic means pursuant to the Electronic Commerce Act, S.O. 2000, receipt and evaluation of Tenders and Request for Proposals including the option of submitting documentation, payment or the process to be followed in the issuing, c-17, as amended.

Purchasing Cards

The Purchasing Agent is responsible for the Purchasing Card Program outlined in the City of Greater Sudbury's Purchasing Card Policy. The Purchasing Card Policy shall adhere to this Purchasing By-law

Purchases Between \$500 and \$25,000

and \$25,000 must be made by using either a Purchasing Card; Purchase Any Purchases between between \$500 Order, Blanket Order or Contract.

\$500 and \$25,000 - Continued... Purchases between

In certain and appropriate circumstances, the Request for Proposal or the Request for Tender process may be used for the purchase of goods, services or construction in this Total Acquisition Cost range.

this cost range shall demonstrate that **FAIR** purchase the Goods, Services or Construction in It is important that the procedure used MARKET VALUE was achieved.

Purchases Exceeding \$25,000

Request for Tender

- exceeding \$25,000.00 where all the following 1. A Request for Tender shall be used for purchases criteria apply:
- two or more sources are considered capable of supplying the requirement
- permit the evaluation of tenders against the requirement is adequately defined to clearly stated criteria; an Q
- It is intended that the Lowest Compliant Bid will be accepted without negotiations.

Purchases Exceeding \$25,000

Continued...

- The General Manager in charge of the Bid Solicitation or the Agent, on behalf of the GM, may award contracts emanating from a Request for Tender provided that:
 - a) the Award is the lowest compliant bidder;
- b) sufficient funds are available and identified in appropriate accounts within Council approved budgets; and;
 - c) the provisions of the By-law are complied with.
- The General Manager or Agent shall follow the provisions of Section 27 regarding the form of contract required to complete the purchase.

Request for Proposa

A Request for Proposal (RFP) is used when one or more of the criteria for issuing a Request for Tender cannot be met such as: a.) owing to the nature of the requirement, suppliers supplier is based on the effectiveness of the requirement or objective and the selection of the are invited to propose a solution to a problem, proposed solution rather than on price alone; or

Request for Proposal.. Continued

b.) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.

\$100,000.00 or greater and the RFP method of of the committee formed to evaluate the response Where the Contract price is anticipated to be procurement is used, the Agent shall be a member to the Request for Proposal.

Request for Proposal..

Continued

- Every Request for Proposal shall contain an evaluation grid.
- evaluation criteria for assistance in formulating qualifications, methodology, past performance The Agent shall maintain a list of suggested an evaluation grid, which criteria may include, but are not limited to, factors such as approach, equipment and facilities, experience and scheduling, price and strategy.

Request for Proposal..

Continued

- solicitation or the Agent, on behalf of the GM, may The General Manager in charge of the particular bid award contracts emanating from a RFP provided
 - a.) The estimated Total Acquisition Cost does not exceed \$100,000.00;
 - The award is made to the supplier meeting all mandatory requirements and determined, by reference to evaluation grid, as providing best value; b.)
- Sufficient funds are available and identified in appropriate accounts within Council approved budgets ن

Contract Without Budgetary Appropriation

commencement of the purchasing process, submit Where a requirement exists to initiate a project and funds are not contained within the Council Approved Budget to meet the proposed expenditure, the GM shall, prior to the a report to Council containing:

Bids in Excess of Project Estimates

Manager in charge of the Bid Solicitation and the Agent, jointly, may enter negotiations with the Lowest Compliant Bidder to achieve an acceptable Bid within Where Bids are received in response to a Bid Solicitation but exceed project estimates, the General the project estimate. Negotiations shall be conducted in accordance with the guidelines established by the Canadian Construction Documents Committee (CCDC)

Emergency Purchases

Where an Emergency exists requiring the immediate procurement of Goods, Services or Construction, the General Manager or the Agent may purchase the means, notwithstanding any other provision of this Byrequired Goods by the most expedient and economical law. As soon as practicable thereafter, the Agent shall comply with Section 27 of this By-law.

Emergency Purchases...

Continued

report to Council shall be made by the GM and the detailing the circumstances of the Emergency. A possible, notify the Agent with a written report Agent in all circumstances where the Emergency Manager, the GM shall as soon after as reasonably For all emergency purchases made by a General purchase exceeds \$25,000.

Bid Irregularities

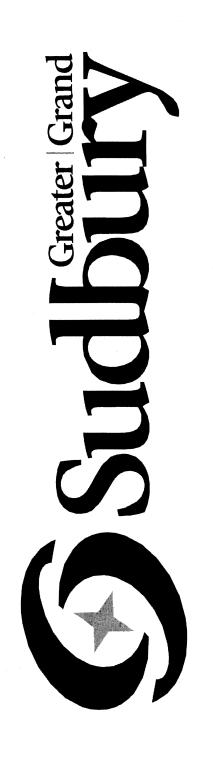
are set out in Schedule "C". For an irregularity listed in the first column of contained in Bids pertaining to all Contracts The process for administering irregularities Schedule "C", the applicable response is set out opposite to the irregularity in the second column. A copy of Schedule "C" is attached.

Information available on City's Website

- The following documents are available on the City's intranet E-links or Internet:
- View/Print all Blanket Orders and Procedures E-links

Procurement Card Policy and Procedures - E-links

- Tender and RFP Procedures E-links
- Purchasing By-law 2003-300, as amended Internet Tender Website
- List of Tender/RFP's Tender Website



Purchasing Card Policy

Objective

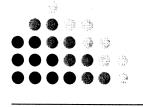
maintenance repairable, operating (MRO) Sudbury's Supplies & Services Section is process. Our goal is to give the end user to streamline and simplify the purchasing items with as little red tape and paper as The objective of the City of Greater a tool to purchase the low value possible.

Objective

purchases directly from Vendors and also The VISA Procurement Card is a simple tool that will allow employees to make management information reporting provide us with a comprehensive system.

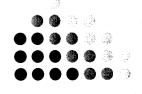
100,000 invoices received annually by the Accounts Payable Section are less than Seventy-Five percent (75%) of the \$500.00 in value.

- implementation of the procurement card system Supplies & Services commenced in 2003.
- Our Business Plan is to implement procurement (Purchasing) cards in all CGS Departments by 2010.
- allow management to concentrate and control The advantage of the Procurement Card will the higher volume City expenditures.

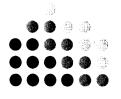


Madame Justice Bellamy issued her four-volume 1123 page report in September, 2005, after leading two (2) separate inquiries into some of the procurement practices at the City of Toronto.

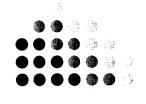
transaction involving the leasing by the City of Toronto of some computer equipment from a company called MFP Financial Services Ltd. Swelled from an expected \$43 The Toronto Computer Leasing fiasco sparked by a Million to almost \$84 Million.



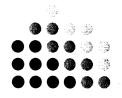
- place, a strong system of checks and balances that The report highlights the importance of having in can serve to check poor judgment as well as the integrity of all concerned.
- The report recommendations apply to Toronto or conduct for anyone who has anything to do with purchasing and sets a high standard of ethical any organization that is in the business of purchasing.



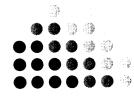
SOLID procurement infrastructure is needed procurement base in place is the mark of a and experience shows that having a solid The MAIN theme of the report is that a successful organization.



- managed by one department. Complete 1) Procurement should be overseen and
- the central procurement department should be good governance of the City, the head of 2) Since procurement is fundamental to the VERY Senior position. - Complete
- Division should issue a procurement manual. 3) The Purchasing & Materials Management Complete



- assembled for major City procurements 4) Project teams should be carefully
- Working towards this
- team should be designated as the contact person in case councillors have questions 5) One senior person on the procurement outside Council.
- Working towards this

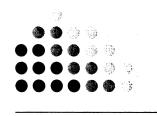


- The Legal Services Division should be involved in major procurements from the outset. - Working towards this
- project charter should be established to set out the Further, at the outset of any major procurement, a and the tasks to be completed within due dates. resources needed, the competencies required, scope of the project, the associated risks, the

- Working towards this

lobbying does not persuade the City to design the The City should remain vigilant to ensure that leader as to unfairly favor one competitor.

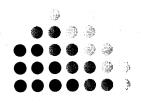
- Working towards this



advantage for bidders who communicate with person should not participate in evaluating 9) To ensure that there is NO appearance of the designated City contact person, that bids. - Complete

should make procurement decisions in publica 10) Whenever possible, Council and Committees

- Complete



tracking of expenditures against approved contract 11) Enter all data into accounting system to permit full amounts. - Working towards this

procurement should be filled by outside consultants. 12) Gaps in in-house expertise essential to any

- Working towards this