



Municipal Modernization Procurement Review

Presented by: Lise Patry, LXM LAW LLP
January 12, 2021 Council Meeting



LXM LAW LLP
BUSINESS LAWYERS | CONSULTANTS

Introduction

October 2020

- LXM LAW awarded contract
- Compressed review of procurement

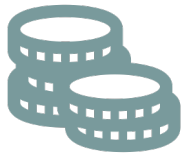
November-
December 2020

- Information gathering
- Environmental scan (legal / governance/ benchmark)
- Review of E-bidding software products

January 2021

- Council Report
- 2021 Procurement Policy
- Council meeting presentation

Objectives of Review



Cost reduction



Streamline processes
for efficiencies

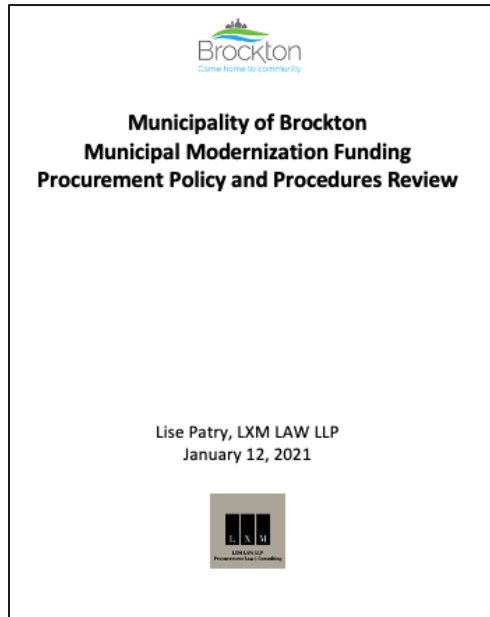


Compliance with
legislative and trade
treaties



Ensure fair, transparent
and competitive
procurement processes

Council Report



2 Parts:

Part 1 – Policy and Procedures Review

Part 2 – Review of E bidding Platforms

Council Report - Part 1 Policy/Procedures

Observations:

- Brockton's policy required updates
- Opportunities to streamline and improve, save on costs, comply with legal requirements.

Council Report - Part 1 Recommendations

RECOMMENDATIONS:

1. Update policy (details included in attached presentation)
2. Establish procedures manual
3. Establish templates for PO, RFQ, RFP, RFT
4. Establish standard contract terms (goods, services)
5. Training for Council and staff

Council Report - Part 2 Ebidding Software

- Reviewed most commonly used platforms:
 - MERX, Biddingo, bids&tenders, Bonfire
- Platforms functionally equivalent
- 3 offer no-cost option for basic functionality
- Users satisfied
- bids&tenders currently available to Brockton
- bids&tenders in use by many Ontario municipalities
- bids&tenders listed on CFTA Secretariat website

Council Report - Part 2 Recommendation

- Adopt bids&tenders as Brockton's tendering website and e bidding platform



End of Council Report Presentation

Questions?



2021 Procurement Policy - Highlights

Presented to Council on January 12, 2021

Lise Patry, LXM LAW LLP

2021 Procurement Policy - Highlights

Reflects **governance best practices** outlined in the 2020 Collingwood Judicial Inquiry report:

- Goals and objectives of procurement
- Staff vs. Council/Council-members' role in procurement
- Suppliers' role in procurement
- Competitive procurement by default
- Handling unsolicited proposals

2021 Procurement Policy - Highlights

- Preserves budget, expenditure authorities and budget process from the old policy
- Aligns with CFTA and CETA
- Introduces formal procurement and contract approvals, including the CAO, CFO and clerk involvement
- Increase's CAO's accountability and involvement
- Balances administrative costs vs. contract value
- Modernizes the procurement approval matrix

2021 Procurement Policy - Highlights

- Revises approach to Local Preference
 - Risks associated with current policy (identified in Council Report)
 - Updated policy permits selective tendering up to \$75,000
 - Expands ability to invite local suppliers to participate in more meaningful opportunities

Approval Framework and Thresholds (Competitive)

COMPETITIVE PROCUREMENT APPROVALS

	Approval Authority			
Contract Value (incl. potential renewals)	Procurement Strategy Approval	Approval of RFX Document prior to release or publication (as applicable)	Approval to award Contract	Council Approval
Over \$10,000 up to \$25,000	Department Head	Department Head	CFO	No
Over \$25,000 up to \$50,000	CFO	Department Head and CFO, jointly	CFO	No (Information report to be provided at next Council meeting)
Over \$50,000 up to \$75,000	CFO	Department Head and CFO, jointly	CAO	No (Information report to be provided at next Council meeting)
Over \$75,000	CAO	Department Head and CAO, jointly	Council	Yes Council approval required

Approval Framework and Thresholds (Non-Competitive)

NON-COMPETITIVE PROCUREMENT APPROVALS (EXEMPTIONS)

Contract Value (incl. potential renewals)	Approval Authority (Approval to proceed with Non-Competitive Purchase)	Council Approval
Up to \$10,000	Department Head	No
Over \$10,000 up to 25,000	CAO subject to receipt of written justification from Department Head	No
Over \$25,000	Council subject to receipt of written justification and joint recommendation of CAO and Department Head	Yes Council approval required, except for an Emergency in which case an information report to be made as soon as possible.

Council Oversight & Special Approvals (per Collingwood Inquiry)

- (e) **Information Report to Council for > \$25,000 Procurements.** At each regular Council meeting, for information purposes, the CFO shall submit a status report to Council on all procurements valued at \$25,000 or higher undertaken or awarded since the previous Council meeting, as noted on the above table.
- (f) **Special Council Approvals.** Regardless of the Contract Value, Council approvals are required where:
 - i. the approved funding is insufficient for the Contract award;
 - ii. staff does not recommend awarding the contract to the lowest compliant or highest ranked Bid that has met the requirements of the RFx;
 - iii. Council approval is mandated by statute;
 - iv. the CAO recommends Council approval; or
 - v. the term of the Contract exceeds 5 years.

2021 Procurement Policy - Highlights

- Defines the permitted procurement vehicles
- Clarifies when procurement vehicle should be used

Permitted Procurement Methods

12. Permitted Procurement Methods

- 12.1. The following are the procurement strategies and vehicles that may be used when procuring Goods or Services:

Contract Value (incl. potential renewals)	Procurement Strategy	Permitted Procurement Vehicle
Up to \$10,000	Non-Competitive Purchase Optional: Invitational Competitive Process (minimum 2 quotes)	Procurement Card Purchase Order Petty Cash RFQ-I Optional: RFQ-F
Over \$10,000 to \$25,000	Invitational Competitive Process (minimum 2 quotes)	RFQ-I (recommended) Optional: RFQ-F, RFP, RFT
Over \$25,000 to \$75,000	Invitational Competitive Process (minimum 3 quotes) Optional: Advertised Competitive Process	RFQ-F (recommended) Optional: RFP, RFT
Over \$75,000	Advertised Competitive Process	RFP, RFT

NON-COMPETITIVE PURCHASES		
Up to \$10,000	Negotiation	Petty Cash, Procurement Card, Purchase Order
Over \$10,000 to \$25,000	Negotiation	Purchase Order (with or without incorporated terms and conditions).
Over \$25,000	Negotiation	Contract (preferred), includes a Purchase Order that incorporates terms and conditions.

Contract Signing Authorities

9. PO and Contract Signing Authorization.

- 9.1. All purchases shall require the issuance of a PO or signature of a Contract, unless otherwise approved by the CAO.
- 9.2. Department Heads are authorized to sign Contracts using Brockton's unamended standard terms and conditions or standard Purchase Orders, for the purchase of Goods and Services under \$25,000.
- 9.3. For all other Contracts, there shall be two (2) signatures of any of the positions listed in Section 9.4 on all Contracts and contract amendments.
- 9.4. The Mayor, Clerk, CAO, CFO are authorized to sign approved contracts and all related approved contract documents on behalf of the Municipality, including an amendment or renewal.

2021 Procurement Policy - Highlights

- Authorizes Council to debar suppliers for a variety of reasons, including unethical conduct, poor performance, harassment
- CAO to review policy every 5 years

End of Policy Presentation

Questions?