1
REVIEW OF PROCUREMENT POLICY AND PROCEDURES

The Finance and Administration Committee recommends:

1. **the presentation from Tom Appleby, Director of Supplies and Services, be received; and**
2. **the recommendation contained in the following report, September 25, 2006, from the Commissioner of Finance, be adopted:**

1. RECOMMENDATION

It is recommended that:

1. Regional Council adopt the purchasing procedures as set out as Attachment 1 to this report.

2. PURPOSE

The purpose of this report is to comment on the results of a staff review of the Region's Purchasing by-law, Procedures and Practices and to recommend any revisions or additions that would be appropriate.

3. BACKGROUND

On June 22, 2006 Regional Council adopted report No. 6 of the Finance and Administration Committee, setting out the procedure for evaluating requests for proposals. Council directed staff to report further on the purchasing process to a future meeting of the Committee.

4. ANALYSIS AND OPTIONS

The *Municipal Act, 2001* requires municipalities to adopt policies with respect to the procurement of goods and services. In order to assist municipalities in meeting these requirements, the Ministry of Municipal Affairs and Housing developed a document entitled "A Guide to Developing Procurement By-Laws" (the "Guide"). The Guide sets out five major areas of procurement that should be addressed in municipal policies: Request for Proposals, Request for Tenders, Request for Quotations, informal or low value purchases and non-competitive purchases (emergency and exempt purchases).

The purchasing by-law enacted by Council on November 18, 2004 (as amended on June 22, 2006) addresses the five areas of procurement identified in the Guide. The Guide lists in detail the clauses that should be included in municipal policies, as follows:

- Purposes, Goals and Objectives of the By-Law
- Definitions
- Application
- Responsibilities and Authorities
- Restrictions and Exceptions
- Pre-Qualification
- Authorization of Purchases
- Price Agreements
- Emergency Purchases
- Sole Source Purchases
- In House Bids
- Contingencies
- Purchase of Additional Goods, Services or Construction
- Co-operative Purchasing
- Unsolicited Proposals
- Contractor Performance
- Bid Review Committee
- Council Approval
- Surplus Stock
- Contract Documents
- Payment of Accounts
- Schedule “A” (exemptions to the By-law)
- By-Law Review (at least every five years)

Staff are satisfied that the Region’s by-law fully complies with the Guide and meets the requirements of the *Municipal Act, 2001*. Accordingly, it is not recommended that the by-law be amended.

In addition to the Guide, Regional staff reviewed the purchasing policies and procedures as subscribed to by the National Institute of Governmental Purchasing Inc. (NIGP) of which the Region is a long time member. The review confirmed that Regional Policies and Procedures are consistent with those applied in North America, including the GTA.

4.1 Looking beyond the by-law requirements

Although the by-law meets and, in some cases exceeds the requirements set out in the Guide, staff also reviewed the Region’s Tendering/Proposal Procedures, and the application of the Interprovincial Trade Agreement. It was determined that our tendering procedures needed to be updated to reflect changing market, organization and practice changes. Below are comments on each of these documents.

4.1.1 Changes to the Region's Tendering/Proposal Procedures

The document setting out Tendering/Proposal Procedures (Appendix 1) has been updated to include certain procedures and practices that to date have not been included.

A procedure on handling post tender debriefings has been added. These briefings are conducted with bidders who request information on the strengths and weaknesses of their submission. The purpose of a debriefing is to assist bidders in understanding how they might improve possible future submissions.

A further section has been included to govern communication with bidders. This sets out how the Region will communicate after bids are opened and during the period up to the point of award. This procedure explains the so-called "blackout" period while bids are being analyzed.

4.1.2 Compliance with the Agreement on Internal Trade. (Chapter 5 Procurement)

The Agreement on Internal Trade is a political accord on conducting business at a federal, provincial and municipal level. The AIT is designed to promote an open, efficient and stable domestic market for long-term job creation, economic growth and stability. It is also intended in part to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, service and investments within Canada; and to enhance the competitiveness of Canadian business. Chapter 5 of the AIT provides specific rules related to procurement. Annex 502.4 to chapter five extends the coverage of chapter five to municipalities, municipal organizations, school boards and publicly-funded academic, health and social service entities.

The requirements under the AIT are very similar to the requirements under the Ministry's Guide as reflected in the Region's Purchasing By-law. However, the AIT provides greater detail in certain areas such as non-discrimination, transparency, the tendering process, its application to buying groups, exceptions and a dispute resolution process. The Region's Purchasing by-law and processes are consistent with the Annex. Where clauses in the Annex provide greater detail on a particular part of the bidding process, they are applied to our process.

5. FINANCIAL IMPLICATIONS

There are no financial implications to these recommendations.

6. LOCAL MUNICIPAL IMPACT

There is no local impact to these recommendations.

7. CONCLUSION

The Region's purchasing policy as codified in the purchasing by-law meets or exceeds the requirements under the *Municipal Act* and the Agreement on Internal Trade. The endorsement of the updated Tendering/Proposal Procedures will assist departments and bidders in better understanding our procedures from the point of issuing the bid document to the point of award. It will also provide a clearer explanation on how bids are evaluated and on what basis bids may possibly not be accepted.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)