

Date: February 18, 2025

To: Mayor and Council

Name and title: KRIS DALIO, DIRECTOR OF FINANCE AND IT SERVICES

Subject: Procurement Overview and Practices

Attachment(s): None

Recommendation(s):

That Council RECEIVES FOR INFORMATION the report dated February 18, 2025 from the Director of Finance and IT Services titled "Procurement Overview and Practices."

Purpose:

To provide Council with information detailing the City's current procurement practices as it relates to trade laws and the City's Procurement Bylaw and Procedures.

Policy/Regulatory Analysis:

This report has been prepared as per the approved Council resolution on February 3, 2025:

"That Council DIRECTS staff to prepare a report highlighting opportunities to improve the City of Prince George's procurement practices, with considerations given to the correspondence from the ICBA, as well as the emerging "social procurement" practices being adopted by some municipalities, and that the report include recommendations to ensure procurement policies remain open, competitive, transparent, and most importantly that are beneficial to the local economy."

Discussion:

Government Procurement is a lot different than the private sector as we are not only governed by City bylaws, policies and procedures, but there are trade agreements to which we also must adhere. The City is subject to applicable trade agreements such as the Comprehensive Economic and Trade Agreement (CETA), Canada-UK Trade Continuity Agreement (CUKTCA), Canadian Free Trade Agreement (CFTA) and the New West Partnership Trade Agreement (NWPTA). All of these agreements hold the same basic principles of open and non-discriminatory procurement. **Trade agreements do not permit preferential treatment of local suppliers.** Each one has different provinces/countries that define geographic boundaries and has different value thresholds as to when the rules apply. While we are required to meet the obligations of all, the NWPTA (which covers the four western provinces) has the most stringent rules, lowest thresholds and fewer exemptions so it tends to be the agreement that guides us the most. The NWPTA requires formal procurement where the anticipated costs are at or above the threshold amounts identified for municipalities:

The NWPTA thresholds for procurement involving BC, Alberta, Saskatchewan and Manitoba are:

- \$75,000 or greater for goods and services
- \$200,000 or greater for construction

The CFTA thresholds for procurement within all of Canada are:

- \$133,800 or greater for goods and services
- \$334,400 or greater for construction

The CETA and CUKTCA thresholds apply when dealing with the European Union (EU) or the United Kingdom (UK). Thresholds for CETA and CUKTCA are:

- \$353,300 or greater for goods and services
- \$8,800,000 or greater for construction

If the cost is below the CETA and CUKTCA threshold, there is no trade law obligation from the City to include proponents from the EU or the UK.

In the case of the Canada-US-Mexico Agreement (CUSMA), it is agreed that the World Trade Organization (WTO) rules apply to procurement for CUSMA and municipalities are not covered by that agreement. This means that municipalities could restrict U.S. proponents and likely not break any trade agreement rules. However, Administration would not recommend doing this without careful consideration. Broadly speaking, restrictive bidding practices lead to higher prices and poorer quality goods being procured. Specifically, consideration should be given to U.S. goods that the municipality heavily relies on and would have extremely large cost and/or efficiency consequences to change, such as Microsoft products for our technology needs and U.S. suppliers for our mobile and other equipment needs.

If the procurement is expected to exceed thresholds, a formal solicitation of Request for Proposal (RFP), Request for Qualifications (RFQ) or an Invitation to Tender (ITT) must be used. **Splitting a procurement into smaller pieces to avoid exceeding thresholds is a contravention of trade agreements.**

Municipalities can put further criteria around procurement, as well as the delegation of certain Council's powers, duties and functions to officers or employees of the City, through the use of a bylaw. The City has Bylaw 8841 for this purpose and further empowers the City's Purchasing Procedures to guide procurement provided they are consistent with Bylaw 8841 and applicable trade agreements. Through Bylaw 8841, informal solicitations (Information Request for Quote (IRFQ)) are further restricted below the \$75k threshold:

- Only solicitations up to \$10k can be directly awarded with Manager approval
- Solicitations between \$10k and \$50k require 3 different quotes before proceeding and are led by the Manager
- Solicitations above \$50k are formal solicitations led by the Procurement Division

Community Benefit Agreements (CBA's) and Social Procurement

The Independent Contractors and Businesses Association (ICBA) correspondence on the February 3rd, 2025 Council Meeting was discouraging the use of CBA's in public procurement. The City of Prince George has completed no solicitations nor are there any currently planned that involve a CBA.

Vancouver has enabled the use of CBAs through the establishment of a CBA Policy which mandates CBAs for Vancouver developments over 45,000 sq/m. CBA's are currently under legal challenge and it may be wise to see how that concludes before considering entering into one ourselves.

Social procurement is purchasing with the idea of achieving social, cultural and environmental goals in addition to traditional criteria of lowest price and best quality. It attempts to measure these as an overall benefit to the community instead of viewing the individual project in isolation and can include things like diversity and inclusion. The City's current criteria does not allow for social procurement but includes traditional criteria such as company experience, team quality, methodology and price. If there is an interest in pursuing social procurement as scoring criteria, Administration would seek direction from Council to do so and would need to research and likely obtain legal advice as to how we could include social procurement and stay within the boundaries of trade laws.

While trade laws restrict us from "supporting local", local suppliers (whether that be our city, province or country) should have a natural advantage in bidding over external suppliers as they should have less travel and living out allowance costs for their workers and equipment. When thresholds aren't met, the City has the ability to support local without breaking trade laws. The ICBA correspondence does point out that restrictive bidding practices means less pressure to ensure competitive costs and quality of project delivery and will inevitably result in higher costs to taxpayers. This point is not disputed by Administration and in the case of CBAs, it is broadly acknowledged and empirically demonstrated in BC that using CBAs for infrastructure projects is likely to increase costs, most significantly during early adoption of this practice.

Tariffs

At a high level, tariffs encourage countries to close ranks (this is counter to the goals of free trade) and find non-tariff goods for substitutes. When substitutes are not available or cannot meet the demand, tariffs have the effect of higher priced goods and increases in inflation. While businesses tend to absorb some of the increased costs at the start, reducing their profit margins, they gradually pass those costs down to the end-consumer to keep the sticker shock from happening all at once. Depending on the size of the tariffs and how able businesses are to absorb the reduced profits, the cost of tariffs are likely to fully pass through to consumer prices in two to three years.

As the tariffs discussion between the US and Canada is an evolving situation with unknown timing impacts, Administration is unable to quantify the impacts to Council at this time. As budgets potentially become constrained due to increased costs, Administration will recommend to Council courses of action at that time.

Summary and conclusion:

This report has been prepared for Council's information.

Respectfully submitted:

Kris Dalio, Director of Finance and IT Services

Approved:

Walter Babicz, City Manager

Meeting date: [2025/03/10]