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Town of Aurora

General Committee Report

No. FIN22-019

Subject: Procurement modernization update – annual software costs

Prepared by: Rachel Wainwright-van Kessel, CPA, CMA

Department: Finance

Date: June 7, 2022

Recommendation

1. That Report No. FIN22-019 be received; and
2. That the recommended changes, as summarized in Table 1, to the procurement policy and bylaw in this report be approved; and
3. That staff be directed to bring forward the amending bylaw to the June 28 Council meeting for approval; and
4. That a non-standard procurement for \$611,100 over a five-year term be awarded to WAMCO for the annual licencing and maintenance costs to support the automated water meter reading technology capital project number 40355.

Executive Summary

This report provides an overview of the amendments proposed for the procurement bylaw. These amendments are recommended based on the experience with using the bylaw over the last few months and provide an example of the impact of the change from the old bylaw to the new one with respect to annual software costs.

- The procurement of annual software related costs is treated very differently under the new bylaw
- The WAMCO operating contract is an example of the impact of the change in the bylaw
- Staff propose that the award of all annual software procurements with a term of up to five years be approved by the Procurement Governance Committee

Background

The new procurement bylaw was approved by Council in February this year

In January of this year Council reviewed and approved a new procurement policy which was formalized with the approval of the bylaw in February at Council.

The bylaw represented a complete change compared to the previous one. It modernized the bylaw in alignment with the latest procurement best practices and trade treaties.

Council approved proceeding with the automated water meter read technology project in April 2021

Last year Council approved the capital budget for the automated water meter reading technology project. This project includes setting up the infrastructure with the approval of a single source contract to WAMCO. Under the old bylaw the annual software licence and maintenance costs for this initiative were exempt from the procurement bylaw.

Analysis

The procurement of annual software related costs is treated very differently under the new bylaw

Under the old procurement bylaw, the purchase of software licencing and maintenance costs were exempt from the bylaw. This enabled staff to renew contracts for existing software including Microsoft Office, server applications, financial system, ActiveNet, etc. However, these contracts were managed outside of the procurement process and no purchase order was issued.

Under the new bylaw, software licences and maintenance costs are considered as non-standard procurements as per Schedule B – Exclusions under the following criteria of part 1 Excluded Acquisitions and Expenditures:

- (e) This policy does not apply with respect to competitive Procurement requirements, and in such cases Procurement can be conducted as a Non-Standard Procurement, when it can be demonstrated that the goods or services can be supplied only by a particular Supplier and no alternative or substitute exists for the following reason(s):
 - i. there is an absence of competition for technical reasons;
 - ii. patents, copyrights, or other exclusive rights must be protected.

Non-standard procurements valued up to \$250,000 are approved by staff. With procurements greater than \$100,000 and below \$250,000 approved by the Procurement Governance Committee (PGC). Procurements of \$250,000 or more require approval by Council.

The WAMCO operating contract is an example of the impact of the change in the bylaw

The automated water meter reading technology project procurement was initiated under the old bylaw. That is why the recommendations in report FIN21-016 only requested the approval to award the single source contract for the implementation of the project. Under the old bylaw the ongoing software licencing and maintenance costs for the project were exempt. The report did outline the operating impact on the water and wastewater budget along with some offsetting savings.

There were delays in getting this project started due to supply chain issues related to COVID. The portion of the contract related to the capital project has been awarded but the operating portion has not because it is now governed by the new procurement bylaw which classifies this purchase as a non-standard procurement over \$250,000 which requires Council approval. This example is the first instance where staff now need to seek Council approval for software licencing and maintenance for an existing solution.

Staff propose that the award of all annual software procurements with a term of up to five years be approved by the Procurement Governance Committee

Under both the old and new bylaw, the implementation of new software would be initiated by a capital project which is approved by Council during the budget process. This ensures that Council is informed about new software initiatives which are being implemented by the town.

Post implementation of a new system, there are annual costs which include licencing, maintenance, subscription fees, etc. These costs are ongoing for the length of time that the town uses the software. Should an existing system become outdated or obsolete, then staff would bring forward a capital budget request to implement a new solution.

This report proposes that annual fees related to software (excluding implementation costs) for contracts up to five years in length be approved by the PGC. The PGC will ensure that the non-standard procurement is managed appropriately and meets the criteria of being for existing systems implemented by the town.

The changes to the bylaw for this recommendation impact the role of the PGC in the main policy and Schedule D – Threshold and Authorization Schedule as summarized in

Table 1 and outlined in the procurement bylaw and policy with track changes in Attachment 1.

Table 1
Recommended Changes to the Procurement Policy and Bylaw

| Section | Change |
|--|--|
| Procurement Policy 4.3 Procurement Governance Committee | Add clause (d) (d) the Non-Standard Procurements authority to procure for software license, maintenance, and related fees (excluding implementation costs) for contracts of up to five years and over \$250,000 |
| Schedule D – Threshold and Authorization Schedule Part B Non-Standard Procurement | Table 2 – Table of Authority, add the following: Procurement Value: \$250,000 and over for software license, maintenance, and related fees (excluding implementation costs) for contracts of up to five years Authorize Procurement: PGC Delegated Authority to Procure: Department Head |
| | 1. Authorization Process, insert the following clause after f) and re-label the current clause g to h. g) If the Procurement Value is equal to or greater than \$250,000 and is for the procurement of software license, maintenance, and related fees (excluding implementation costs) for a contract of up to five years, the PGC may authorize the Procurement and delegate the authority to procure to the Department Head. |

Advisory Committee Review

None

Legal Considerations

The Municipal Act, 2001 requires that municipalities adopt and maintain policies with respect to the procurement of goods and services. If Council approves the proposed changes to the procurement policy, a bylaw incorporating the changes to the policy will

be brought to Council at a future date, which will amend the existing procurement by-law.

Financial Implications

The financial implications of the award of the operating costs for the automated water meter reading system were included in report FIN21-016 Automated Water Meter Antenna System and were included in the 2022 Budget. The annual cost after savings is forecasted at \$47,400 in year one and increasing to \$61,500 by year five. This reflects growth in the community and increased use of the online portal by residents.

The changes to the bylaw have no financial implications.

Communications Considerations

The Town will use “inform” as the level of engagement for this report and policy. It will also be promoted by way of the monthly Council Highlights media release. The report will be placed on the Town’s website.

Climate Change Considerations

There are no climate change considerations related to this report.

Link to Strategic Plan

The changes to the procurement bylaw supports the **leadership in corporate financial management** and **progressive corporate excellence, innovation and continuous improvement** guiding principles of the strategic plan. By reviewing the effectiveness of the procurement policy periodically and making amendments to the bylaw where necessary the procurement process can be streamlined while still being open, transparent, and fair.

Alternative(s) to the Recommendation

1. Keep the procurement policy and bylaw as is and all non-standard procurements over \$250,000 will be reviewed by Council

Conclusions

The recommended changes to the procurement bylaw will help streamline the process for the non-standard procurements for annual costs related to software licencing, maintenance, subscription, and related fees. Council will be notified through the quarterly reporting of the approval of non-standard procurements. Should a system need to be replaced, the costs for the replacement will come forward as a capital budget request which will require Council approval. The WAMCO operating contract is an example of this situation.

Attachments

Attachment 1 – Amended Procurement Bylaw with Track Changes

Previous Reports

FIN21-016 – Automated Water Meter Antenna System, April 2021

FIN22-001 – Procurement Modernization Proposed New Policy, January 2022

Pre-submission Review

Agenda Management Team review via email on May 19, 2022

Approvals

Approved by Rachel Wainwright-van Kessel, CPA, CMA, Director, Finance

Approved by Doug Nadorozny, Chief Administrative Officer