



Memorandum

Corporate By-law Number: 085-2024-Corporate Services-Office of the City Treasurer

TO: Office of the City Clerk **FILE:**

FROM: Keri Greaves, CPA
Office of the City Treasurer, Corporate Services

DATE PREPARED: March 13, 2024

SUBJECT: By-law 085-2024 – A by-law to amend Supply Management By-law 113-2011

MEETING DATE: City Council - March 25, 2024

By-law Description: A By-law to amend By-law 113-2011, being a by-law to govern the way the Corporation purchases supplies, services, and equipment.

Authorization: Report 64-2024 (Infrastructure, Development & Operations – Development Services) – Committee of the Whole – March 11, 2024. Memorandum – City Council – March 25, 2024.

By-law Explanation: The purpose of this By-law is to amend the Supply Management By-law 113-2011 to increase the purchasing thresholds to reflect economic adjustments that have occurred since the By-law was enacted and to bring them in line with other municipalities.

Schedules and Attachments:

Amended/Repealed By-law Number(s):



THE CORPORATION OF THE CITY OF THUNDER BAY
BY-LAW NUMBER 85-2024

A by-law to amend By-law Number 113-2011, being a by-law to govern the way the Corporation purchases supplies, services, and equipment, known as the “Supply Management By-law”.

Recitals

1. Subsection 270(1) of the *Municipal Act, 2001*, provides that a municipality shall adopt and maintain policies with respect to its procurement of goods and services.
2. City Council, on December 19, 2011, enacted and passed By-law Number 113-2011 (the “Supply Management By-law”) governing the way the Corporation purchases supplies, services, and equipment.
3. City Council, on April 27, 2015, enacted and passed By-law Number 59/2015 amending the Supply Management By-law with respect to its dispute resolution mechanism for bidding process.
4. City Council, on March 11, 2024, approved updates to the procurement thresholds to reflect economic adjustments that have occurred since the Supply Management By-law was enacted and to bring them in line with other municipalities.
5. It is deemed necessary and expedient to amend the Supply Management By-law, as set out in this further amending by-law.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

1. That Section 4.05 (Purchases between \$1,000 and \$5,000) is hereby amended by deleting this section in its entirety and replacing it with the following:

4.05 Purchases between \$1,000 and \$15,000

The acquisition of Goods and Services having a value of at least one thousand (\$1,000.00) dollars but less than fifteen thousand (\$15,000.00) dollars which are not covered by a Blanket Purchase Order shall be carried out by the Department Head in accordance with the principles set out in this By-law and such other applicable policies and procedures established from time to time. These Procurements may be undertaken using:

- (a) Field Purchase Orders; or
- (b) Corporation-issued Procurement credit cards.

2. That Section 4.06 (Purchases between \$5,000 and \$60,000) is hereby amended by deleting this section in its entirety and replacing it with the following:

4.06 Purchases between \$15,000 and \$121,200

Goods and Services with an estimated value of at least fifteen thousand (\$15,000.00) dollars but less than one hundred twenty-one thousand and two hundred (\$121,200.00) dollars may be purchased through a Request for Quotation process. At least three (3) written quotations shall be solicited by the Manager Supply Management in consultation with the requisitioning Department Head. The lowest acceptable quotation will be accepted and the Bidder who provided it shall be the Contractor.

3. That Section 4.07 (Purchases at \$60,000 or More) is hereby amended by deleting this section in its entirety and replacing it with the following:

4.07 Purchases at \$121,200 or More

Goods and Services with an estimated value of at least one hundred twenty-one thousand and two hundred (\$121,200.00) dollars shall be procured using either a Request for Proposal process or a Tender process. The Manager Supply Management, in consultation with the requisitioning Department Head, shall:

- (a) advertise the Bid Request in one or more publications of general circulation;
- (b) publicize the Bid Request through at least one publicly accessible web site;
- (c) receive written Bids up to the published deadline; and
- (d) coordinate the opening of Bids in public at the appointed time by a committee comprised of at least two members of the Manager Supply Management's staff. The committee shall keep a written record of all Bids, initialed by the committee members.

Where it is not possible to prepare precise specifications to issue a Tender, a Request for Proposals shall be issued. Supply Management shall establish evaluation criteria and weightings for the criteria. The RFP shall clearly distinguish those requirements that are mandatory and non-mandatory, and shall clearly outline how those items will be evaluated.

4. That Section 4.08 (Use of Negotiation for Goods and Services less than \$60,000) is hereby amended by deleting this section in its entirety and replacing it with the following:

4.08 Use of Negotiation for Goods and Services less than \$121,200

Despite any other provisions of this By-law, in circumstances set out in this Section, the requisitioning Department Head may wish to negotiate with one or more potential suppliers for acquiring Goods and Services valued at one hundred twenty-one thousand and two hundred (\$121,200.00) dollars or less. In that case, the Department Head shall consult with the Manager Supply Management who may then enter into negotiations with one or more vendors for the supply of Goods and Services when any of the following conditions exist:

- (a) due to market conditions, Goods and Services are in short supply;
- (b) it is a Sole Source circumstance (including circumstances where only one Bidder submitted an acceptable Bid);
- (c) all acceptable Bids exceed the amount budgeted for the Goods and Services and the lowest Bid is within twenty (20%) percent of budget;
- (d) market research indicates that the extension or reinstatement of an existing Contract would be more cost-effective or beneficial to the Corporation;
- (e) a Single Source is being recommended because it is more cost-effective or is otherwise more beneficial; or
- (f) when authorized by Council.

If consultation between the requisitioning Department Head and the Manager Supply Management does not result in consensus as to whether or not to negotiate rather than issue a Bid Request, then the final determination shall be made by the General Manager of Finance and Corporate Services.

5. That Section 4.09 (Negotiation Method for Goods and Services Valued at More than \$60,000) is hereby amended by deleting this section in its entirety and replacing it with the following:

4.09 Negotiation Method for Goods and Services Valued at More than \$121,200

In circumstances where Section 4.08 would have applied had the value of Goods and Services been one hundred twenty-one thousand and two hundred (\$121,200.00) dollars or less, but the estimated value exceeds that, this Section applies. Despite any other provisions of this By-law, the requisitioning Department Head shall consult with the Manager Supply Management to determine if there is suitable merit for the use of the Negotiation Method for the purchase of Goods and Services valued at greater than one hundred twenty-one thousand and two hundred (\$121,200.00) dollars.

If consultation between the requisitioning Department Head and the Manager Supply Management does not result in consensus to use the Negotiation Method, then the final decision as to whether or not to use the method shall be made by the City Manager. Any Department Head may request that the matter be reviewed by the Executive Management Team.

If it is determined that the Negotiation Method is suitable, the requisitioning Department Head shall prepare and submit a report to Council seeking approval for the use of this method prior to making any Contract award.

6. That Subsection 4.10 (Reporting to Council Generally) is hereby amended by deleting this section in its entirety and replacing it with the following:

4.10 Reporting to Council Generally

After a Bid Request, in addition to other reporting requirements set out in this By-law, a report must be submitted to Council by the requisitioning department prior to a Contract award when:

- (a) the acquisition has a value of five hundred thousand (\$500,000.00) dollars or more, excluding items which are required for replenishment of inventory; or
- (b) the acquisition has a value of at least one hundred twenty-one thousand and two hundred (\$121,200.00) dollars and the lowest acceptable Bid, in the case of a Tender, or highest scoring proposal, in the case of a Request for Proposals, is not being recommended.

7. That Section 5.01 (Emergency Method for Goods and Services up to \$60,000.00) is hereby amended by deleting this section in its entirety and replacing it with the following:

5.01 Emergency Method for Goods and Services up to \$121,200

In the event of an Emergency, each of the following is authorized to enter into a Contract for Goods and Services up to a value of one hundred twenty-one thousand and two hundred (\$121,200.00) dollars without the requirement for any Competitive Method: the City Manager, any Department Head, or the Fire Chief or Deputy Fire Chief. The Procurement shall be undertaken using the most expedient, economical, and practicable means in the circumstances.

8. That Section 5.02 (Emergency Method for Goods and Services over \$60,000) is hereby amended by deleting this section in its entirety and replacing it with the following:

5.02 Emergency Method for Goods and Services over \$121,200

Where an Emergency exists, a Department Head is authorized to requisition the Manager Supply Management to obtain necessary Goods and Services having an estimated value of over one hundred twenty-one thousand and two hundred (\$121,200.00) dollars through the most expedient, economical, and practicable means in the circumstances, provided that the Department Head in consultation with the City Manager, prepares and submits a report to the Executive Management Team at its next meeting explaining the circumstances giving rise to the Emergency. Where the cumulative total of all purchases made to address the Emergency is greater than five hundred thousand (\$500,000.00) dollars, a report shall be made by the City Manager to the City Council as soon as possible when the Emergency is over, explaining the circumstances and providing for the appropriate budgetary adjustments.

9. This By-law shall come into force and take effect on the date it is passed.

Enacted and passed this 25th day of March, A.D. 2024 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Ken Boshcoff

Mayor

Dana Earle

Deputy City Clerk