

The Corporation of the Town of Lakeshore

Report to Council

Finance Services



To: Mayor & Members of Council

From: Rosanna Pellerito, Director of Finance

Date: April 2, 2020

Subject: Amendments to the Town's Purchasing Policy (By-law 58-2010, the Town's Purchasing By-law) to Remove the Requirement for a Public Tender Opening

Recommendation

Adopt By-law 36-2020, an amendment to the Purchasing Policy contained in Purchasing By-Law 58-2010, to discontinue public tender openings.

Background

Council approved By-Law 58-2010 at its meeting on July 13, 2010. Sections 4.2 and 4.3 of the Purchasing Policy speaks to the process for public openings.

Comments

Given the recent events of the COVID-19 pandemic, Administration is recommending to amend the provisions in the Purchasing Policy and cease attendance at tender openings ("public openings") going forward. With Town Hall closed and physical distancing requirements, this makes public openings an unsafe practice.

There is currently no legal requirement to perform public openings, other than what is contemplated in the Town's Purchasing Policy, the only requirement is to publicly release the results for tender calls. The Town will continue this practice through the electronic portal for Bid &Tenders by publishing the results of the tender and the total bid amount as an unofficial bid result.

In addition to the current concerns arising from the pandemic, public openings are being discouraged in the procurement industry for various reasons. Public attendance at openings were designed to promote transparency unfortunately it can also enable bidder interference, e.g. intimidation, last minute communications and multiple bidding submissions. For example, Administration has observed people waiting in the reception

area of Town Hall waiting to see who shows up to determine whether or not to bid, or which bid that they want to submit. There are also concerns with opening tenders that may not meet compliance checks. With the quick turnaround of the close of bid submissions at 12:00 pm on Friday and the public opening commencing at 12:05, 5 minutes following the close, staff are not always able to perform a proper compliance check which may lead to releasing a non-compliant bid. This jeopardizes the fairness of what should be a competitive, highly regulated process.

The changes to the Purchasing Policy are proposed for sections 4.2 and 4.3 only and include the following as noted in blackline below:

4.2 SUBMISSION OF BIDS

- a) Bids shall be accepted in paper form to the ~~Department Head~~Purchasing Coordinator at the time and date specified by the tender call.
- c) When a tender is received, the envelope shall be time and date stamped ~~regardless of when it is received~~. The computer time is the recognized time piece for the purpose of submissions. Receipt of each tender shall be recorded on a list of tenders received and the tender shall be deposited unopened, in the tender drawer. The number of bids received and the names of bidders are confidential and shall not be divulged prior to the tender opening. ~~Where requested by subcontractors seeking to supply goods/services to the general contractor, the list may be forwarded for information only. They are to be notified that they will not be permitted to submit a bid directly and that the plan takers names are considered confidential and not to be shared with other general contractors.~~
 - d) A bidder who has already submitted a tender bid may submit a further tender bid at any time up to the official closing time and date specified by the tender call. The last tender bid received shall supersede and invalidate all bids previously submitted by that bidder.
- d) A bidder may withdraw his or her tender bid at any time up to the official closing time by letter bearing his or her signature as in his or her bid submitted to the Department Head. Telephone requests will not be considered. When the withdrawal is made in person and the person is other than a senior official of the company, and for letter withdrawals, the authenticity of the request must be confirmed by telephoning a responsible official of the company
- e) The closing time for receiving tender bids shall be 12.00 PM noon on Fridays. If the tender is received late, it shall be returned unopened to the bidder by mail. If a late bid is received without a return address on the envelope it shall be opened, address obtained and then returned. The covering letter should state why the envelope could not be returned unopened.
- f) ~~The opening of bids shall commence at 12:05 p.m. unless the Department Head or his/her designate acting reasonably postpones the start to some later hour, but the opening shall continue, once started, until the last bid is opened.~~ Bids shall be opened prior to close of business on the date that the tender call closes. The ~~Department Head~~Purchasing Coordinator shall be responsible for arranging for the ~~public opening of the~~ tender bids ~~at the time and date specified by the tender call.~~ There the following shall be in attendance at that time:
 - i) the Department Head or his/her designate ~~and~~;
 - ii) the Purchasing Coordinator or his/her designate

- g) Each tender shall be stapled to the applicable tender envelope and the bid deposit clipped to the tender form.
- h) If correspondence is found enclosed with a tender in the tender envelope, that tender shall be considered to be an improper bid and shall be so noted in the record of tenders opened ~~and the tender read out in the normal manner~~. The correspondence and the tenders shall be referred to the solicitor for recommendation as to acceptance or rejection.
- i) When tenders have been opened, the Purchasing Coordinator shall check the listing of tenders received, and the number of tenders opened to ensure that all tenders received are accounted for. If a discrepancy occurs, the tender opening proceedings shall be delayed until all tenders have been accounted for or the discrepancy resolved.
- ~~l) When all tenders have been accounted for, the Department Head shall announce the number of bids received, the name of the bidder and the total bid amount.~~
- j) Intentionally blank.
- k) Once the tenders have been read out loud, the The Department Head shall have a list prepared (Record of Tenders) in order of bid amount from low to high recording the name of each bidder and the amount of the tender ~~and the bid deposit amount~~. At this time the Department Head shall close the tenders ~~shall be closed~~ by drawing a diagonal line in the unused space in the listing and signing the form, together with the Purchasing Coordinator.
- l) The checking of tenders shall be completed as soon as possible following the ~~public portion opening of the each tender opening~~. Any tender that has been rejected or is improper shall be so noted on the Record of Tenders opened. For a rejected bid the amount shall not be listed.
- m) Upon completion of the checking of tenders, the unofficial bid results of all qualified bids shall be posted to the Town's electronic bids and tenders website.

4.3 AWARDING OF CONTRACT

- a) Upon ~~award completion of the contract~~ checking of tenders, the ~~Department Head~~ Purchasing Coordinator shall ~~immediately~~ send a notification of acceptance to the successful bidder advising him that his tender has been accepted and advising that the contract documents will follow for execution.

Financial Impacts

There are no financial implications resulting from this report.

Attachment(s): None

Report Approval Details

Document Title:	Amendments to the Purchasing By-Law.docx
Attachments:	
Final Approval Date:	Apr 23, 2020

This report and all of its attachments were approved and signed as outlined below:

Kristen Newman

Truper McBride