



Council Report

For the Meeting of April 14, 2016

To: Council
From: Susanne Thompson, Director of Finance
Subject: Civic Expenditures Bylaw Repeal Bylaw

Date: March 30, 2016

RECOMMENDATION

That Council give first, second and third reading to Civic Expenditures Bylaw Repeal Bylaw No. 16-039.

EXECUTIVE SUMMARY

The purpose of this report is to complete Council's direction upon the approval of the Purchasing Policy that occurred March 24, 2016. Approval of the new purchasing policy replaces the Civic Expenditures Bylaw. In order to complete the repeal of the Bylaw, passing a Bylaw for the express purpose of repealing the Civic Expenditures Bylaw is required.

Council approved the adoption of a new Purchasing Policy and the Repeal of the Civic Expenditures Bylaw 09-054 at its meeting of March 24, 2016. (Appendix A)

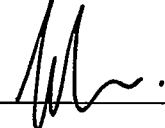
The proposed Bylaw to complete the repeal is attached as Appendix B.

Respectfully submitted,


for Keith Hennessey
Manager, Supply Management Services


Susanne Thompson
Director of Finance

Report accepted and recommended by the City Manager: _____

Date: 
April 7, 2016

List of Attachments

Appendix A: March 24, 2016 Staff Report

Appendix B: Civic Expenditures Bylaw Repeal Bylaw No. 16-039

To: Committee of the Whole **Date:** March 7, 2016
From: Susanne Thompson, Director of Finance
Subject: Purchasing Policy

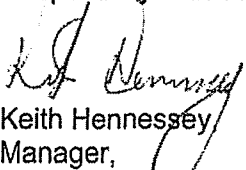
March 7, 2016
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In anticipation of input from the Task Force, the sustainability and community involvement policies are intentionally very broad. The goal is to ensure that the application of these policies is clearly and objectively outlined so that it is policy-driven and not subjective. These value added evaluation criteria would be aligned with the strategic plan and would provide higher points for higher impact activities.

Staff have proactively reached out to others to learn about social procurement policies. Cumberland, for example, developed a social procurement framework as a first step with the assistance of an experienced consultant. This framework identifies what the goal of social procurement is for Cumberland and what success looks like for them. They are currently developing an implementation plan.

The next step in the City's process is to refer the policy to the Task Force and further steps would be determined based on their input.

Respectfully submitted,


Keith Hennessey
Manager,
Supply Management Services


Susanne Thompson
Director of Finance

Report accepted and recommended by the City Manager: _____

Date: _____


March 15, 2016


List of Attachments

Appendix A: Purchasing Policy

Appendix B: Corporate Supply Arrangement Access Agreement with the Province of British Columbia

Appendix C: January 7, 2016 Staff Report – Proposed Amendments to the Expenditure Bylaw

Appendix A

 CITY OF VICTORIA	PURCHASING POLICY	
	No.	Page 1 of 6
SUBJECT: Purchasing Policy		
PREPARED BY: Finance		
AUTHORIZED BY: City Council		
EFFECTIVE DATE:		REVISION DATE:
REVIEW FREQUENCY: Every five years		

A. PURPOSE

The purpose of the Purchasing Policy is to outline the City's purchasing processes and establish expenditure authorization limits for the purchase of goods and services as authorized by City Council through the Financial Plan.

B. OBJECTIVES

To balance the efficiency of purchasing processes to obtain goods, services and construction services to achieve the City's objectives, and to obtain the best value for all funds expended.

The City is committed to open, transparent, fair and accountable access to City business utilizing leading practices and adhering to legislation and applicable trade agreements.

C. DEFINITIONS

BIDS mean the City's Bidders Information Distribution System.

City Manager refers to the person holding the position of Chief Administrative Officer as defined by Section 147 of the Community Charter.

City Clerk refers to the person holding the position of Corporate Officer as defined by Section 148 of the Community Charter.

Competition means a competitive process such as a Request for Offer (RFO), Request for Proposal (RFP), or Tender.

Director of Finance refers to the person holding the position of Financial Officer as defined by Section 149 of the Community Charter.

EOC means the City's Emergency Operations Centre.

Expenditure means an expenditure made in respect of a purchase.

Local means located within the Capital Regional District.

Manager refers to the City's Manager of Supply Management Services.

Purchase means the purchase of goods, equipment, or services.

RFO means a Request for Offer that is a competitive process for an intended expenditure by the City of normally not more than \$50,000.

RFP means a Request for Proposal that is a competitive process for an intended expenditure by the City of more than \$50,000 for which proposals are invited and accepted electronically, but are not publicly opened.

Single Source means where there is a single supplier that clearly provides the best value to the City in the circumstances of a particular purchase or the circumstances in which the purchase is required are extraordinary or involve an emergency.

Sole Source means the only supplier who has the ability or capacity to supply specified goods or services or the supplier the City is obligated contractually to use in the circumstances of a particular purchase.

Tender means a competitive process for an intended expenditure by the City of more than \$50,000 for which bids are invited and accepted electronically, but are not publicly opened. Unevaluated bid results will be provided upon request.

D. PURCHASING PROCESSES AND AUTHORIZATION LIMITS

The City has established a number of purchasing processes. The following describes each process and sets out their respective authorization limits.

D.1 General

City staff will endeavour to determine if goods, equipment or services, including construction services, can be provided internally prior to commencing any external purchases.

In all circumstances, the City will comply with the spirit and intent of all applicable trade agreements and any other applicable legislation.

Every competition must clearly state that the competition is subject to the terms of this Purchasing Policy.

To obtain better value through larger scale purchases, the City may, with the approval of the Manager, access other public agencies' agreements when appropriate.

The City may enter into an agreement with a supplier for goods, equipment, or services only if that gives the City the best value in connection with quality, service, and price, as compared to the value given by other suppliers.

Before a purchase is committed to, it must be authorized by the Manager through the issuance of a Purchase Order, and if applicable, an agreement approved by the City Clerk.

Dividing a single purchase into two or more purchases or payments to circumvent policies, purchase card limits and/or levels of signing authority is prohibited.

D.2 Petty Cash

The Manager may maintain petty cash funds that are used for minor purchases.

D.3 Purchasing Cards

The Manager may maintain a Purchasing Card program for minor expenditures up to a dollar limit per transaction that is approved by the Director of Finance, but not exceeding \$10,000 per transaction.

The City's purchasing card program is guided by the Purchasing Card Policy.

D.4 Emergency or Sole Source Purchases

The City Manager or a Director may negotiate a purchase for that Department without inviting bids from suppliers if:

- a) the Director has given written approval for the purchase to the Manager, and
- b) the Director and the Manager, jointly determine that the circumstances in which the purchase is required involve an emergency or is from a sole source.

An emergency or sole source purchase requires the approval of:

- a) the Manager, if it is not more than \$30,000,
- b) the Director of Finance if it is not more than \$75,000, and
- c) the City Manager if it is greater than \$75,000.

D.5 Single Source Purchases and Notice of Intent

The City Manager or a Director may negotiate a purchase for that Department without inviting bids from suppliers if:

- a) the Director has given written approval for the purchase to the Manager, and
- b) the Director and the Manager jointly determine that
 - i. there is a single supplier that clearly provides the best value to the City in the circumstances of a particular purchase, or
 - ii. the circumstances in which the purchase is required are extraordinary.

The City will post a Notice of Intent, in a form acceptable to the Manager, on BIDS for a minimum of 5 working days for all single source purchases exceeding \$10,000. If no reasonable objection is provided as a result of the Notice of Intent, the Manager may proceed with the purchase. In the event of a reasonable objection from a vendor who has the ability to perform the work, the City will proceed with a competition.

A single source purchase requires the approval of:

- a) the Manager, if it is not more than \$30,000,
- b) the Director of Finance if it is not more than \$75,000, and
- c) the City Manager if it is greater than \$75,000.

D.6 Competitions

The following limits and processes pertain to all purchases where the above outlined processes do not apply.

1. Purchases of not More Than \$10,000

The Manager has the discretion to decide on the process to be followed. This includes petty cash purchases, purchasing card purchases, single or sole source purchases, or a competition.

2. Purchases of More Than \$10,000 but not More Than \$50,000

The Manager must issue an RFO to potential suppliers.

3. Purchases of More Than \$50,000 but not More Than \$200,000

The Manager must invite and accept tenders or RFP's from potential suppliers, unless it is in the City's best interest to issue an RFO, which can be authorized by the Manager for purchases of more than \$50,000 but not more than \$100,000.

4. Purchases of More Than \$200,000 but not More Than \$500,000

The Manager must invite and accept tenders or RFP's from potential suppliers. Before a contract is awarded, the Manager must make a recommendation for consideration and approval by the Director of Finance or the City Manager.

5. Purchases of More Than \$500,000

The Manager must invite and accept tenders or RFP's from potential suppliers. Before a contract is awarded, the Manager must make a recommendation for consideration and approval by the City Manager.

6. Written Agreement

A written agreement between a supplier and the City is required in each of the following circumstances:

- a) if requested by a supplier
- b) for construction contracts of \$200,000 or more
- c) if an RFP and subsequent successful proposal do not contain sufficient elements, such as specifications, conditions, warranties, or indemnities, to constitute a satisfactory contract for either the City or the supplier
- d) if there is already a contract, such as a Professional Services Agreement, between the City and the supplier, but there are changes to that contract for the particular expenditure

Agreements will be on standard City contracts approved by the City's legal counsel or authorized designate.

All supplier supplied agreements will be reviewed and approved by the City's legal counsel or authorized designate prior to execution.

7. Competitions that Exceed Budget

A competition cannot be awarded if it exceeds the Council approved budget.

The Manager must refer any such competition to the Director of the applicable department, who jointly with the Director of Finance and the City Manager, will determine whether to reject the bid or seek Council approval to shift or increase the budget.

8. Identical Bids

If identical lowest bids are received by the City, the Manager must take into consideration the location of the suppliers, giving preference to local suppliers. If the identical bids are from two or more local suppliers, or if identical bids are received from two or more suppliers that are not local suppliers, the successful bid must be chosen by the drawing of lots under the Manager's

supervision. The City Manager must supervise the drawing of lots if the bids exceed \$75,000.

9. Financial Security

The Manager may require financial security from potential suppliers when the Manager considers that to be in the City's best interest.

E. USED GOODS OR EQUIPMENT

To ensure maximum value to the City's purchasing dollars, the purchasing function and performance must be optimized. To this end, the City may consider the purchase of used goods or equipment where a positive business case can be shown.

F. SUSTAINABILITY GUIDELINES

The City considers the environmental, social and economic value of the goods and services being purchased with the intent to shift spending away from goods and services that negatively impact the environment and society towards products and services that are more environmentally sound and socially beneficial.

Recognizing its role as a major purchaser of goods and services, the City will seek opportunities to encourage and influence markets for environmentally and socially preferable products through employee education; supporting pilot testing of potential new products; and adopting innovative product standards, specifications, and contracts.

It is the City's practice to include sustainability guidelines as value added evaluation criteria in all RFPs. The evaluation criteria used will be tailored to the specific competition; however, more points will be awarded for higher impact activities.

G. COMMUNITY INVOLVEMENT

The City is part of the local community and recognizes the value of community involvement. To strengthen the City's support for community involvement and to recognize a vendor's community involvement at the local, national or international level, value added evaluation criteria may be added to RFPs. The value added evaluation criteria used will be tailored to the specific competition; however, the more community involvement can be demonstrated, the more points will be awarded.

H. STANDARDS OF CONDUCT

Employees will conduct themselves in a manner that a reasonable and informed third party would conclude as being appropriate when expending City funds.

These provisions supplement and augment other City policies such as Human Resources Policy #116 – Conflict of Interest.

Where an employee has been privy to confidential or sensitive information, it is their responsibility to ensure that it remains so. Such information must not be used for any personal gain or advantage. Information given in the course of an employee's professional activity should be forthright and not intended to mislead or deceive others.

Employees shall maintain relationships with suppliers and third parties in a manner that contributes to and promotes fair competition in the market and protects the interests and reputation of the City. Employees should not use their position to garner personal favours or advantages.

I. EXEMPTIONS

Trade agreements outline some exclusions to competitive processes and this policy does not apply in situations where those exclusions exist.

The City also has separate policies or processes for the procurement of certain goods and services, such as:

- a) Financial investments (guided by the City's Investment Policy)
- b) Insurance (purchased through a broker, which is selected through a competitive process)
- c) Employee benefits (through Greater Victoria Labour Relations Association)

J. DISPOSAL OF SURPLUS

The Manager must dispose of all goods, equipment and materials, for which the City no longer has a use, by any method the Manager considers to be in the City's best interest, including without limitation, public auction, public tender, negotiated sale, or donation to non-profit organizations. Wherever possible, items that cannot be sold or donated will be recycled, limiting the amount sent to the landfill.

City employees may not be given any surplus items and will not be able to buy surplus items directly from the City unless the sale is through a third party auction. City employees responsible for declaring the goods, materials or equipment surplus to the City's needs shall not be eligible to obtain the goods through any means including third party auction or re-purchase from the supplier.

K. STATE OF EMERGENCY

In the event of an activation of the City's Emergency Operations Centre or if a State of Emergency is declared by City Council, the Federal, Provincial or Regional Governments for the City of Victoria for the purposes of this policy, the following shall apply:

- a) The Director/Deputy Director of the EOC shall have the authority of the City Manager
- b) The Logistics Section Chief and/or the Finance Section Chief shall have the authority of the Director of Finance
- c) The Logistics Section Chief and/or the Finance Section Chief may increase City's Purchasing Card holders' limits to a level that they consider appropriate based on the nature of the emergency
- d) The Supply Branch Coordinator, the Procurement Unit Coordinate and/or Incident Commanders shall have the authority of the Manager

Documentation and procedures provided by Emergency Management BC shall be followed to ensure Disaster Financial Assistance eligibility is maintained.

Appendix B

CORPORATE SUPPLY ARRANGEMENTS ACCESS AGREEMENT

THIS AGREEMENT is made _____, 20__.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Citizens' Services ("Province", "we", "us" or "our", as applicable)

AND:

[NAME OF PUBLIC SECTOR CUSTOMER] ("you" or "your" as applicable)

PURPOSE: To allow you to review and issue a draw down ("Draw Down") against various Corporate Supply Arrangements ("CSAs") established by the Province with its suppliers for goods and services. Upon signing of this Agreement ("Agreement"), you may draw down against one or more CSAs, and this Agreement will apply only in respect of those CSAs against which a Draw Down is made by you.

NOW THEREFORE, in consideration of the sum of One Dollar and other good and valuable consideration, including you being permitted to issue Draw Downs against the CSAs (the receipt and sufficiency of which is hereby acknowledged) the parties agree as follows:

1. In this Agreement:

"CSA Holder" means a supplier who has been issued a CSA; and

"Draw Down" means the order issued by you against a CSA for the provision of a specified quantity of goods or services at the prices and on the terms and conditions set out in the CSA.

2. We will:

- (a) grant you the right to review the CSAs and order the goods and services through Draw Downs on the terms and conditions of the respective CSAs and this Agreement;
- (b) provide you information about the CSAs, including but not limited to, the terms and conditions applicable on a Draw Down and pricing information;
- (c) list you on the Purchasing Services' website http://www.pss.gov.bc.ca/csa/pdfs/approved_csa_users.pdf and notify CSA Holders that you are authorized to issue Draw Downs against the CSAs.

3. You will:

- (a) be responsible for ensuring that you have read and understood the terms and conditions of each CSA and respective Draw Down before making a Draw Down against that CSA;
- (b) include in each Draw Down forwarded to a CSA Holder
 - (i) the CSA Reference Number,
 - (ii) your purchase order number, if required, and
 - (iii) the specified quantity of the goods or services being ordered
- (c) be solely responsible for all payments and other obligations to the CSA Holder incurred through making a Draw Down against the CSA;
- (d) not permit any person who is not your authorized employee responsible for your procurement activities to have access to CSA information provided to you by the Province;
- (e) designate an individual to represent you in matters related to this Agreement;

- (f) comply with all of the terms of any CSA against which you make a Draw Down, and with the terms and conditions of any Draw Down made as set out in the CSA documents on the Purchasing Services' website;

- (g) not renegotiate any part of the CSA with the CSA Holder, unless such renegotiation is specifically contemplated in the CSA or the Province has provided written consent, which will be limited to renegotiating only to the extent necessary to address your specific insurance, indemnification, limitation of liability requirements, privacy, confidentiality and security requirements through a supplemental agreement with the CSA Holder, subject to paragraph 4(d) of this Agreement; and

- (h) not use the CSA information as a bargaining tool with the CSA Holder for the purposes of entering into a separate agreement for the same or similar goods or services (other than a supplemental agreement described above).

4. You acknowledge and agree that:

- (a) each Draw Down you issue under a CSA is intended by you to form a separate binding contractual agreement between the CSA Holder and you for the goods or services described in the Draw Down, and you intend to be bound under the terms of such agreement;

- (b) the Province is not party to any agreement between you and a CSA Holder that is formed upon your issuing a Draw Down;

- (c) you are responsible for determining whether the issuance of a Draw Down under a particular CSA is in accordance with your legal and policy obligations, including without limitation any law, policy or agreement applicable to the procurement of goods or services, and the Province makes no representation or warranty that the issuance of any Draw Down by you under a CSA will meet any requirements that you are subject to under any law, policy or agreement;

- (d) the CSAs and the contractual terms and conditions applicable on Draw Down have been established in the interests of, and on terms and conditions appropriate to, the Province of British Columbia;

- (e) we make no warranties or representations of any kind with respect to the appropriateness or suitability of any goods or services drawn-down by you, and expressly disclaim any warranties or representations as to the appropriateness or suitability of the terms and conditions of the CSA or of any Draw Down for you;

- (f) in no event will we be liable to you or to any third party for any damages or losses of any kind in connection with any CSA, any Draw Down or any goods or services drawn-down, including without limitation direct, special, indirect, consequential, punitive, exemplary damages, damages for lost profits or lost savings;

- (g) in the event that we make any payment on your behalf (including on behalf of your employees, contractors or subcontractor's employees or contractors) to a CSA Holder or other third party in connection with any CSA, any Draw Down or any goods or services drawn-down, we reserve the right to invoice you, and you will pay, the full amount of that payment;

- (h) you will indemnify and save harmless us and our employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that we or any of our employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of, any act or omission by you or by any of your agents, employees, officers, directors, or subcontractors in respect of any CSA or any goods or services obtained under a CSA;
- (i) notwithstanding paragraph 3(g), a CSA Holder is not under any obligation whatsoever to agree to any terms and conditions different from those set out in the CSA or enter into a supplemental agreement of any kind with you.
5. No partnership, joint venture or agency will be created or will be deemed to be created by this Agreement or any action of the parties under this Agreement.
6. Either party may cancel this Agreement on 30 days notice by giving notice of termination in writing to the other party. In the event that there is a breach of this Agreement, we may, in our sole discretion, immediately cancel this Agreement and refuse you further access to the CSAs.
7. This Agreement will be in effect for one year from the date of signing and will renew automatically unless either of the parties sends to the other a written notice of termination no less than thirty (30) days before the renewal date.
8. This Agreement constitutes the entire agreement between the parties and no understandings, representations or agreements, oral or otherwise, exist between the parties with respect to the subject matter of this Agreement except as expressly set out or incorporated by reference to this Agreement.

WHEREFORE this Agreement has been duly executed as of the date first above written.

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA as represented by the Minister of Citizens'
Services

By: _____

[signatory name / title]

9. Each of the parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.
10. If any provision of this Agreement or the application thereof to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired thereby and will be valid and enforceable to the extent permitted by law.
11. This Agreement will enure to the benefit of and be binding upon the Province and its assigns and upon you, your successors and permitted assigns.
12. A waiver of any term of this Agreement or of any breach by you of this Agreement is effective only if it is in writing and signed by us and is not a waiver of any other term or any other breach.
13. No amendment or modification to this Agreement is effective unless it is in writing and signed by the parties.
14. This Agreement may be entered into by each party signing a separate copy of this Agreement (including a photocopy or faxed copy) and delivering it to the other party by fax.
15. This Agreement will be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia.
16. Notwithstanding any other provision of this Agreement, at no time will we be providing legal advice to you, nor relieve you from your obligation to obtain legal advice on the terms and conditions applicable on a Draw Down against a specific CSA.

[Please print your organization name above]

By: _____
(Signature)

[Authorized signatory name /title]

Telephone: _____

Email: _____

Address: _____

MAYOR