

City of Mississauga Internal Audit Report

CORPORATE SERVICES DEPARTMENT
CORPORATE BUSINESS SERVICES DIVISION
PROCUREMENT SERVICES SECTION
HIGH VALUE ACQUISITION AUDIT

April 25, 2022

City Manager's Department
Internal Audit Division

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**CORPORATE SERVICES DEPARTMENT
CORPORATE BUSINESS SERVICES DIVISION
PROCUREMENT SERVICES SECTION
HIGH VALUE ACQUISITION AUDIT**

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**Corporate Services Department
Corporate Business Services Division
Procurement Services Section
High Value Acquisition Audit**

BACKGROUND

Procurement Services is a section of the Corporate Business Services Division within the Corporate Services Department, responsible for the acquisition of all construction, consulting, equipment, materials, services and supplies on behalf of City departments.

The section is governed by the Procurement By-law 0013-2022 which stipulates the rules for all City procurement processes. Prior to the approval of this new By-law, the section was guided by Purchasing By-law 374-06. There are accompanying corporate policies and divisional procedures established to facilitate and control all purchasing activities. Their goal is to assist customers in navigating the purchasing process, as well as to ensure the integrity of the procurements by enforcing the principles of prudence, fairness, transparency and maintaining compliance with the By-law.

The City has established three procurement thresholds: Low Value Acquisitions (LVA, up to \$25,000), Medium Value Acquisitions (MVA, between \$25,000 and \$100,000), and High Value Acquisitions (HVA, over \$100,000). The HVA category requires a higher level of authorization and usually involves more risks and complexities. This audit reviewed the process of conducting competitive and non-competitive HVA procurements. In 2020, 481 High Value Acquisition procurements were completed with an approximate total value of \$235 million. For the High Value Acquisitions, competitive or non-competitive (single/sole source) procurement processes may be used depending on specific criteria described in the By-law and the City's procurement policies and procedures.

This review was selected as part of the Internal Audit Work Plan 2021-2023, as approved by the Audit Committee. Portions of the HVA process have been reviewed as part of contract audits conducted over the years. A more focused review of the Single/Sole Source and Emergency Acquisitions was conducted in 2018 and resulted in eight recommendations, of which seven had been implemented prior to the commencement of this review and the remaining one was completed in March 2022.

SCOPE

The audit examined HVA procurements that were initiated and/or completed during the period January 1, 2020 to July 31, 2021 and covered all phases of the procurement cycle including pre-bidding, bidding and contract awarding. The review also covered the contract management activities that fall under the purview of the Procurement Services Section, such as vendor performance management, change orders, contract renewal, and contract extension.

The audit reviewed the adequacy of the control framework in place to effectively manage and conduct HVA procurements in a manner conducive to achieving Procurement Services'

business goals (quality, cost-effectiveness, transparency and agility), while remaining compliant with applicable legislation and City policies and procedures.

Not in Scope

The scope of the audit did not cover reporting and statistics generated by Procurement Services to the Leadership Team or Council. It did not include aspects related to payments and tax impacts, accounting of purchases, and project management.

OBJECTIVES

The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing and was guided by a risk assessment performed in conjunction with the Division's management. The purpose of the audit was to review the adequacy of internal controls that mitigate relevant risks related to the following business objectives:

- A) To acquire the right goods and services that meet the business needs;
- B) To acquire goods and services from the right sources at the right time for the best value for money (right price);
- C) To ensure the procurement process is effective, efficient, accountable, transparent and fair;
- D) To acquire goods and services in a socially responsible manner and in compliance with all applicable regulatory requirements, applicable trade agreements, and the Purchasing By-law.

SUMMARY OF OBSERVATIONS

The audit showed that the processes for High Value procurements are well defined and were administered consistently with the Purchasing By-law in effect at the time. While the use of the Procurement Centre requires some improvement related to consistency and completeness of documentation, the tool has positively assisted staff in managing each acquisition by providing structure, milestones for timing and templates.

Due to the pandemic and the need to become virtual, Procurement Services accelerated the use of the third-party bidding platform Bids & Tenders. This allowed for the posting of bidding opportunities and provided some enhanced functionality to the procurement process.

However, the audit also revealed the need for enhanced monitoring to ensure compliance, as well as stronger controls relating to documentation, training and fraud risk management.

Our main observations and recommendations are summarized below. Appendix A outlines the detailed recommendations and the action plans suggested by management.

Implement a procurement fraud risk management process

Procurement Services' role is to ensure the integrity of procurements by enforcing the principles of prudence, fairness and transparency, and maintaining compliance with the By-law.

To ensure the integrity of procurements, certain checks and balances are included in the process, such as approvals of key milestones (PRF, specifications, awards), budget reviews (PRF, PAR, POs) and others. However, even though those controls are useful, a more holistic approach to procurement fraud risk management has not been implemented. Aspects noted were related to enhancements on reference checks, reviews of performance history, Buyers' and Contract Managers' training on fraud "red flags," increased scrutiny of evaluations and risk of collusion.

The audit did not reveal any instances of fraud; however, formal training regarding Fraud Risk for Contract Managers and Buyers is recommended to augment and reiterate the controls that are in place.

Ensure all documentation is kept in the Procurement Centre and monitor for completeness and accuracy

The Procurement Centre is a centralized site, developed by a third party and launched in 2017, as a central repository to house Medium Value (MVA) and High Value Acquisition (HVA) documentation and as a workflow management tool for the life of the procurement.

The audit found that most procurements in the sample were well documented, but still noted some inconsistencies and departure from the established process, related to naming conventions, organization, blank templates, missing documents and old versions of contracts (unsigned).

The completeness and quality of the documentation contained within the Procurement Centre is essential in understanding the stages involved in each acquisition and potentially defending or supporting the City's position should there be an inquiry, dispute or claim.

Ensure Buyers are accountable for the quality, fairness and compliance of the procurement specifications and statements of work.

The development of specifications and statement of work is tasked to the Contract Managers. Buyers support the process, but are not currently accountable for the specifications, nor are they expected to exert further scrutiny on the information provided by the Contract Manager.

Contract Managers, though knowledgeable about the work that is required, may not be up to date on the latest technology and solutions in the marketplace and may not fully understand the procurement process.

Currently there are no procedures or clear guidance on how to write specifications. Buyers have been trained to direct their clients to the Bids & Tenders bidder portal when they are developing specifications. At times, Contract Managers may turn to using the internet or inquiring with existing vendors for assistance, which could provide an unfair advantage if the

specifications are (intentionally or not) too limiting or too similar to a vendor's offering. Besides decreasing competitiveness, such situations may result in disputes and conflicts during or after the procurement.

Update the Vendor Performance Management and Evaluation Policy (03-08-04) to address procedures, roles and responsibilities and records retention

An important responsibility of the Contract Manager is managing vendor performance. Some Contract Managers complete a vendor evaluation at the end of a high-value contract to reference in the future. These are not requested by or normally sent to Procurement Services, which increases the risk that vendors with poor performance in one area will continue to work with the City and bid in future procurements.

The Contract Manager is responsible for monitoring the vendor's performance; however, the current policy and guidelines do not provide guidance on monitoring the vendors' compliance with the code of conduct and ethical standards, and details on document retention. Updating the policy will clarify roles, responsibilities and procedures including performance records retention in order to maintain a history of past performance.

Ensure all new critical Single/Sole Source HVA contracts have completed a risk assessment

The audit found that some long-standing single/sole source procurements do not submit a new Corporate Report for Council approval. We found the same Corporate Report used every year for a renewal starting in 2018, to 2019, 2020 and 2021. The oldest example was a 2020 single source procurement supported by a Corporate Report from 2012 and again in 2016 and 2020.

Management advised us that this is in compliance with the authority provided by the Purchasing By-Law which determines a maximum of 10 years for any contract, and that the multiple renewals could be an opportunity for the City to review the market conditions and determine if the reasons for a single source award remain. However, it is not clear that such review is being done consistently, as documentation to that effect was not found in the files.

Sole source suppliers can pose a risk as one single event may impact production and could force Procurement Services to scramble to find an alternative. For new sole source vendors a risk assessment would help with understanding and awareness of the potential risks, determining the impacts should a performance issue arise and having a plan in place for business continuity.

Additionally, currently there is no requirement to assess financial capabilities for new vendors. The City is at risk assuming that the company will remain solvent, with the resulting threats to the City's ability to deliver services or obtain supplies in a timely and effective manner.

CONCLUSION

The audit found the control environment in Procurement Services needs improvement, particularly related to fraud mitigation, enhancing risk assessments for single source

procurements, monitoring the Procurement Centre and Bids & Tenders for complete and accurate documentation, and training for both Buyers and Contract Managers. A new corporate policy on contract amendments and terminations (03-06-12) should help mitigate some operational issues related to amended or terminated contracts, as it clearly describes the roles and responsibilities of staff, as well as their authority.

In total there were 14 recommendations, eight (8) relating to compliance with and clarification of corporate requirements, four (4) specific to operational control and financial reporting, one (1) regarding safeguarding of assets and information and one (1) to enhance efficiency and effectiveness. Management has agreed and committed to completing all of the recommendations. Two (2) will be done by May 15, 2022, four (4) by June 30, 2022, five (5) by December 31, 2022 and the final three (3) by March 31, 2023.

Details of the audit recommendations and management's comments are presented in Appendix A to this report.



Luis H. Souza, CPA, CMA, CIA
Director, Internal Audit

Auditor: Barbara Webster, BAA, PMP
Senior Internal Auditor

Ahmed Abuasad, CIA
Senior Internal Auditor

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Rec	Recommendation	Priority (H/M/L)	Comments/Status	Classification
1	That Procurement Services, in conjunction with key users and with support from risk-related areas, conduct a periodic fraud risk assessment of its processes, addressing situations as described in the report and other potential threats to the fairness, transparency, compliance and cost-effectiveness, and update their procedures to mitigate the relevant risks identified. Aspects such as mandating a Buyer's participation in reference checks, rotation of Buyers and inconsistencies in the evaluation process should be considered.	H	We will shortly be hiring a Procurement Compliance Officer (new position), whose job will include assessing procurement risks and driving improvements. In addition, reference checking by Buyers and evaluation guidelines are included in the draft Bid Review and Evaluation Policy. Buyer rotation will be considered in our upcoming reorganization. To be completed by December 31, 2022	Operational Control and Financial Reporting
2	That yearly training be conducted on Fraud Risk Management, including but not limited to business ethics, fraud risk, price fixing, collusion and conflict of interest. Guidelines to be developed to detail how to spot indications of fraud included in the Draft Bid Review and Evaluation Policy.	H	Develop recommended training, in conjunction with Internal Audit. To be completed by December 31, 2022	Compliance with and Clarification of Corporate Requirements
3	That declarations and acknowledgement of ethical standards for staff in Procurement Services and by Contract Managers at the start of a procurement be completed and signed off.	H	Buyers and Contract Managers to acknowledge and sign off on the PRF for each procurement. To be completed by May 15, 2022	Compliance with and Clarification of Corporate Requirements
4	Ensure that all documents required by the existing SOP are stored in the Procurement Centre and the Buyers are trained to identify such documents and use the tool appropriately.	H	We will shortly be hiring a Procurement Compliance Officer (new position), whose job will include additional training for Buyers who are not using the tools correctly. In addition, we are in the process of reorganizing, which will move all administrative tasks, including	Operational Control and Financial Reporting

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			document retention and file closing responsibility, to Purchasing Assistants, for consistency and standardization. To be completed by June 30, 2022	
5	That criterion for file and subfolder structure and document naming convention be monitored and enforced in the Procurement Centre and that errors are tracked for coaching purposes.	H	This will be covered by the addition of the new Procurement Compliance Officer. As well, ensuring that procurement files are properly completed/closed out at Procurement Step completion will be done by the Purchasing Assistants, once we reorganize – this is to drive standardization and maximize proper use of tools. To be completed by June 30, 2022	Compliance with and Clarification of Corporate Requirements
6	That Procurement Services clarify and reinforce the Buyer's role in ensuring fairness, transparency and compliance with the procurement process with regard to writing specifications and statements of work, and empower them to exert further scrutiny in the information provided by the Contract Managers in this step. Considerations should be given to creating written guidelines for both Contract Managers and Buyers.	H	a) Create specification/SOW writing guidelines, including roles and responsibilities. b) Strengthen Buyer PDPs and job descriptions to reflect added accountability. c) Amend Schedule D of the Procurement By-law with additional role clarity for Buyers and Contract Managers. To be completed by; a) October 31, 2022 b) 2023 PDP agreements c) March 31, 2023	Compliance with and Clarification of Corporate Requirements

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7	That there be an acknowledgement from the Contract Manager, Buyer and other staff who developed the specifications and/or statement of work, that the specifications and/or statement of work are unbiased and have not been shared with potential bidders.	H	Agree – this relates to ethical standards, ref. Recommendation #2 and will be added to the PRF. To be completed by May 15, 2022	Safeguarding of Assets and Information
8	That the Vendor Performance Management and Disqualification Policy (03-08-04) be updated to address procedures, performance records retention as well as roles and responsibilities, including that Procurement Services is informed and maintains the history of vendor performance evaluations.	H	Agree. To be completed by December 31, 2022	Compliance with and Clarification of Corporate Requirements
9	That Procurement Services provide a risk assessment template for completion by the business unit before entering into a sole source HVA contract with a critical vendor.	M	Agree to develop a risk assessment template. To be completed by March 31, 2023	Compliance with and Clarification of Corporate Requirements
10	That the review of market conditions and reasons for single-source effected at renewal time is formalized, approved by the Chief Procurement Officer or resubmitted to Council, and the documentation is retained in the files.	M	Agree – to be added to Contract Amendments Policy. To be completed by December 31, 2022	Operational Control and Financial Reporting
11	That Procurement Services institute an analysis of the vendor's financial capacity and solvency, potentially considering aspects such as credit ratings, financial positions and others, to confirm fitness for contract award. Potential exceptions (that may happen when the City has a strategic interest in developing a category of vendors), should be clearly stated in the Policy.	M	Agree - to be added to Bid Review and Evaluation Policy. To be completed by December 31, 2022	Operational Control and Financial Reporting
12	That a standard operating procedure be developed with detailed instructions on how to track all contract expiries and a frequency set on how many times a year a report is run, for what duration and provide a report periodically to Contract Managers. Procurement Services to reach out to the business units to advise them of expiring contracts.	M	Agree. To be completed by June 30, 2022	Compliance with and Clarification of Corporate Requirements

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13	That Procurement Services work with the SAP team to determine the best reports to use in order to manage contract expiration dates and document how to produce the reports.	M	Agree. To be completed by June 30, 2022	Efficiency and Effectiveness
14	That the Sustainability Procurement Policy be updated, to consider opportunities to further strengthen the relevance and impact of the sustainability requirements in the City's procurement processes. Consideration could be given to increasing the weight of the SLQ, or to make it a pass/fail requirement even in non-evaluated processes, and to include this assessment for single source procurements, among other potential developments.	M	This is already in our 2022 work plan. To be completed by March 31, 2023	Compliance with and Clarification of Corporate Requirements