

Performance Audit of Standing Offers for Goods and Services

Presented To: Audit Committee

Meeting Date: May 24, 2022

Type: Routine Management Reports

Prepared by: Ron Foster
Auditor General

Recommended by: Auditor General

Report Summary

This report provides a recommendation relating to Standing Offer arrangements for the purchase of goods and services.

Resolution

THAT the City of Greater Sudbury approves the recommendations as outlined in the report entitled “Performance Audit of Standing Offers for Goods and Services”, from the Auditor General, presented at the Audit Committee meeting on May 24, 2022.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report supports the strategic goal of demonstrating innovation and cost-effective service delivery.

Financial Implications

There are no immediate financial implications.

Resources Cited

Purchasing By-Law 2014-1 <https://www.greatersudbury.ca/do-business/purchasing-section-and-procurement-opportunities/policies-terms-and-conditions/purchasing-by-law/purchasing-by-law-2014-1-consolidation-to-oct-1-2019/>

Performance Audit of
Standing Offers for
Goods and Services

May 10, 2022

Final Report



OBJECTIVE

The objectives of this performance audit are to assess the extent of regard for economy, efficiency, and effectiveness of the Standing Offer arrangements for the purchase of goods and services.

BACKGROUND

A Standing Offer is an arrangement that allows the City to purchase repetitively goods and services from one or more suppliers at prearranged prices, under set terms and conditions, when and if these are requested. According to the City's Purchasing By-law, Standing Offers may be established in instances where the actual demand for an item is not known at the outset, and delivery is to be made if and when a requirement arises.

Bid Solicitations for Standing Offers are based on an estimate of the City's annual requirements, without a guarantee of value or volume or exclusivity of purchase from any supplier. Once a Standing Offer is in place, the goods or services may be purchased in accordance with the terms of such Standing Offer by an authorized person up to his or her purchasing authority policy limit subject to Council approved budgets.

Standing Offer agreements are widely used in the municipal sector. Standing Offers are currently being used by the City to purchase over \$40 million of goods and services each year.

METHODOLOGY & SCOPE

This audit included interviews of staff, analysis of trade agreements, by-laws, policies, processes, procedures, purchases, payments, contracts and tests of controls for the period January 1, 2019, to December 31, 2021. Standing Offers for engineering and architectural services are not included in this audit as they have been addressed in a separate audit.

EXECUTIVE SUMMARY

While the City's Standing Offers for goods and services provide effective arrangements for making smaller repetitive purchases, some are not fully aligned with the goals and objectives of the Purchasing By-Law which, among other things, was established to encourage competition among suppliers and to maximize savings for taxpayers. Implementing our recommendations will improve the efficiency of these Standing Offer arrangements, encourage competition and provide additional savings for taxpayers.

AUDIT STANDARDS

We conducted our audit in accordance with Generally Accepted Government Auditing Standards which require that we adequately plan audits; properly supervise staff; obtain sufficient, appropriate evidence to provide a reasonable basis for audit findings and conclusions; and document audits. For further information regarding this report, please contact Ron Foster at the City of Greater Sudbury at 705-674-4455 extension 4402 or via email at ron.foster@greatersudbury.ca.

OBSERVATIONS AND ACTION PLANS

1. Economy and Efficiency of Purchases

The City's Standing Offers for goods and services provide effective arrangements for making smaller repetitive purchases. Notwithstanding, opportunities exist to improve the economy and efficiency of these purchasing arrangements. Table 1 below identifies the number of Standing Offers issued by the City and Table 2 provides an overview of the Standing Offers that were reviewed during this audit.

Table 1 – Standing Offer Awards

Type of Award	Standing Offers	
	Number	Percent
Single Supplier	55	30%
Multiple Suppliers	130	70%
Totals	185	100%

Table 2 – Expenditure Trends on Standing Offers (\$000s)

	Item	Approved Suppliers	2019	2020	2021	Average
1	Rock Salt	1	\$2,189	\$3,052	\$1,450	\$2,230
2	CCTV Camera Inspection and Cleaning of Sewers	1	1,708	1,823	1,923	1,818
3	HVAC, Electrical, Plumbing	7	1,995	1,425	1,750	1,723
4	Infrastructure Repairs	2	1,370	950	2,030	1,450
5	Food, Coffee for Pioneer Manor	6	1,524	1,025	997	1,182
6	Asphalt Supply	2	958	774	653	795
7	Aggregates	5	N/A*	549	655	602
8	Traffic Supplies	6	693	531	72	432
9	Snow Plowing for Water/Wastewater	5	502	391	296	396
10	Janitorial Supplies	8	285	293	358	312
11	Safety Supplies	8	269	288	339	299
12	Equipment Rental	22	212	76	267	185
13	Grading Operations	4	145	182	56	128
14	Automotive Lubricants	1	N/A*	39	16	27
15	Armored Car Services	1	11	16	19	15

**No standing offer agreement was in place.*

Observations:

1. Standing Offers are being awarded to multiple suppliers for the same commodity or service despite differences of 10 percent or more in their bid prices. For example, Standing Offers were awarded to 7 vendors for the HVAC, Electrical and Plumbing Services rather than to the 5 qualified and reputable vendors with lowest hourly rates. As a result, opportunities for cost savings were lost.
2. Approving multiple suppliers for Standing Offers is inefficient when a smaller number of suppliers have the ability to meet City's needs. For example, the vast majority of safety items and janitorial suppliers are being procured annually from four of eight approved suppliers for both standing offers. Similarly, only 4 of the 22 equipment rental suppliers accounted for 94% of the usage in 2020.
3. Actual quantities of goods and supplies purchased significantly exceeded the quantities identified within the Bid Solicitation documents for several of the Standing Offers examined such as asphalt and CCTV camera inspection and cleaning of sewers. As a result, bidders for these Standing Offers may not have submitted their lowest competitive bids.
4. Like other northern municipalities, the City has a large annual requirement for rock salt to deliver its winter maintenance program. Establishing a shared bulk purchasing program with other northern municipalities such as North Bay, Elliot Lake and Sault Ste. Marie might yield cost savings.
5. The annual average expenditure on HVAC, electrical and plumbing contractors is significant. While these expenditures include materials and supplies, it is possible that one or more of these services may be delivered more economically using in-house resources that are centrally coordinated.

Recommendations:

1. To ensure economical purchases and obtain cost savings, only award a Standing Offer to the lowest cost qualified suppliers unless it is necessary to have more to meet the City's requirements.
2. To improve the efficiency of contract administration procedures, approve the minimum number of qualified suppliers offering the lowest cost and capacity to meet the City's operational needs.
3. Provide realistic estimates of the goods, services or construction items that will be purchased annually to encourage competitive bids from suppliers.
4. Explore the merits of a shared bulk purchasing program for rock salt with other northern municipalities such as North Bay, Elliot Lake and Sault Ste. Marie.
5. Prepare a business case to assess the feasibility of expanding the City's in-house capacity to deliver HVAC, electrical and plumbing services to reduce reliance on contractors.

Management Response and Action Plan

Recommendations 1 – 3:

As of 2019, Management has begun transitioning to a new Standing Offer model. Under the new model, many of the previous Standing Offers were converted to Contracts with one Supplier or one Supplier per item, requirement, or service area, etc. In the event multiple Suppliers are necessary to guarantee continuous supply or service, Standing Offers are being constructed in a way to ensure the City always selects the best offer. Standing Offers will include one of the following Call-up processes:

- *First right of refusal (Supplier with lowest price or highest score awarded contract, unless they decline due to availability)*
- *Secondary, quick-quote process (all Suppliers on the Supplier list are given an opportunity to provide a quote and lowest is selected. Note: qualitative evaluation could be factored into the process); or*
- *Rotational contract awards to all Suppliers on the Supplier List (in limited circumstances).*

In addition, Supplier Lists will be kept to a minimum number of Suppliers as deemed necessary for the good or service and potential Suppliers will be provided with an estimated quantity to ensure we take advantage of economies of scale, while informing them on the potential volume to ensure they can meet our needs.

Management will propose changes to the Purchasing By-Law to add explicit requirements and limitations on the use and Call-up procedures for Standing Offers.

Recommendation 4:

The operating departments, with the assistance of Purchasing, will explore the merits of a shared bulk purchasing program for rock salt with other northern municipalities.

Recommendation 5:

The operating department(s) that utilize these Standing Offers will review the feasibility of expanding the City's in-house capacity to deliver HVAC, electrical and plumbing services to reduce reliance on contractors. If opportunities for efficiency and cost savings are found, the operating department(s) will prepare a business case.

2. Legal Obligations

The City's purchasing policies, practices and activities are subject to the following:

I. City's Purchasing By-Law 2014-1:

The purposes, goals and objectives of the City's Purchasing By-law 2014-1 are:

- (a) to encourage competition among Suppliers;
- (b) to maximize savings for taxpayers;
- (c) to ensure service and product delivery, quality, efficiency and effectiveness;
- (d) to ensure fairness among bidders; and
- (e) to ensure openness, accountability and transparency while protecting the financial best interests of the City of Greater Sudbury;
- (f) to have regard to the accessibility of persons with disabilities for Goods, Services and Construction purchases by the City of Greater Sudbury; and,
- (g) to have regard to the preservation of the natural environment and to encourage the use of environmentally friendly Goods, Services and Construction.

Subsection 5(7) of the Purchasing By-law provides that Bid Solicitations shall comply with all applicable law and trade agreements.

II. Trade Agreements:

On July 1 2017, the Agreement on Internal Trade (AIT) was replaced with the Canadian Free Trade Agreement (CFTA). The Ontario-Quebec Trade and Co-operation Agreement (OQTCA) mainly aligns with the CFTA and was updated last on September 14, 2021. The province of Ontario became subject to The Canada-European Union Comprehensive Economic and Trade Agreement (CETA) on September 21, 2017. For covered procurement¹ which has specific financial thresholds for individual procurements, these agreements require fair, open and transparent procurement process as well as:

¹ Under the CFTA, Goods & Services over \$100,000 and construction over \$250,000. Under the CETA, Goods and Services over \$363,000 and Construction over \$ 9.1 Mill. Under the OQTCA, Goods, Services and Construction over \$100,000.

- Alignment of procurement policies and procedures;
- Maximum allowable time periods in which a Standing Offer can be closed for participation;
- Explicit rules for call-ups to ensure transparency to all qualified suppliers;
- Rules and procedures around evaluation criteria, debriefings, and duration of bid postings;
- Administrative procedure for suppliers to challenge a procurement process conducted; and
- Annual reporting on number and aggregate value of goods, services and construction for competitive and non-competitive procurements covered by CFTA & CETA.

Observations:

1. Standing Offers are awarded to multiple suppliers instead of to the lowest qualified number of suppliers needed to meet the City's annual requirements. This practice does not fully align with objectives (a), (b) and (d) of the Purchasing By-law.
2. Call-up procedures for allocating across qualified bidders are not always transparent. For example, a number of suppliers that were awarded Standing Offers for janitorial and safety supplies had not been used at all. This practice does not align with objectives (a), (b), (d) and (e) of the Purchasing By-law.

Recommendations:

1. Revise the current practice of awarding Standing Offers to multiple suppliers unless there are valid operational reasons to support the practice.
2. Formalize call-up procedures to ensure subsequent purchases will be made consistently from the most economical supplier or suppliers required to meet the City's annual requirements.

Management Response and Action Plan

As of 2019, Management has begun transitioning to a new Standing Offer model. Under the new model, many of the previous Standing Offers were converted to Contracts with one Supplier or one Supplier per item, requirement, or service area, etc. In the event multiple Suppliers are necessary to guarantee continuous supply or service, Standing Offers are being constructed in a way to ensure the City always selects the best offer. Standing Offers will include one of the following Call-up processes:

- *First right of refusal (Supplier with lowest price or highest score awarded contract, unless they decline due to availability)*
- *Secondary, quick-quote process (all Suppliers on the Supplier list are given an opportunity to provide a quote and lowest is selected. Note: qualitative evaluation could be factored into the process); or*
- *Rotational contract awards to all Suppliers on the Supplier List (in limited circumstances).*

In addition, Supplier Lists will be kept to a minimum number of Suppliers as deemed necessary for the good or service and potential Suppliers will be provided with an estimated quantity to ensure we take advantage of economies of scale, while informing them on the potential volume to ensure they can meet our needs. Purchasing will be proposing a formal change to the Purchasing By-Law to add explicit requirements and limitations on the use and Call-up procedures for Standing Offers.

3. Supplier Performance Monitoring

The majority of Standing Offers for goods, services and construction are initially established by the Procurement Section of Finance Services, generally extended on expiry of their initial term, and renewed when extensions are no longer possible.

Observation:

Operational staff interact with suppliers in the normal course without a formal system to record and track supplier performance. As a result, decisions to extend or renew Standing Offers may not be objective.

Recommendation:

Establish a formal system to monitor and document supplier performance to ensure that decisions to extend and renew contracts are based on objective documented information.

Management Response and Action Plan

Purchasing continues to lead the development of a formal Contractor Performance Management System. It will be a holistic system that starts with defining contract requirements, conducting contract risk assessments, and developing key performance indicators. There will be a process to record performance and escalate issues to ensure that penalties are appropriate and that issues are escalated to the right people within the City and the Contractor.

This formal system will reinforce the current provisions in the Purchasing By-Law "Disqualification of Bidders", to ensure that expectations are clearly defined, proper notice procedures are followed and that penalties are administered systematically to avoid legal challenges. This is not only meant to be a punitive process as satisfactory performance will also be recorded in order to document the City's reasoning for awarding option years on multi-year contracts, to serve as references for future Bid Solicitation process and to recognize Contractors that provide excellent services.

The development of a formal system will include the evaluation of the Vendor Performance Management Module in bids&tenders. The bids&tenders Vendor Performance Management Module can provide the ability for all parties (Purchasing, the Contract Administrator and the Supplier) to send, fill-out and receive associated forms, as well as tracking due dates of performance review and records retention. This project will extend into 2023.

Table 3 – Summary of Significant Risks

Risk	Total No. of Risks	Risks (Before Controls)			Residual Risks (After Controls)		
		High (15 to 25)	Med (9 to 14.99)	Low (1 to 8.99)	High (15 to 25)	Med (9 to 14.99)	Low (1 to 8.99)
Reputation (R)	2	2	0	0	0	2	0
Operational (O)	5	5	0	0	0	3	2
Financial (F)	4	4	0	0	0	4	0
Legal (L)	4	4	0	0	0	3	1
TOTAL	15	15	0	0	0	12	3

Table 4 – Significant Risks

Risk	Description of Risk	Inherent Risk	Residual Risk*
F1	Standing Offers may not be the most economical way to procure items.	20	13
L2/R2	Standing Offers may not comply with the Purchasing By-Law.	20	13
F2/O1	Supplier performance issues may not be addressed.	16	12
F3/O3	Standing Offers may not be the most efficient way to procure items.	15	12
L4	Suppliers may not adhere to the terms and conditions of Standing Offers.	16	12
L1/R1	Legal and regulatory obligations of trade agreements may not be met.	20	10
O3/F4	Standing Offers may not be the most effective way of procuring items.	20	10
O4	Standing Offers may not be renewed on a timely basis.	16	8
O5/L5	Other City departments may ignore Standing Offers.	15	8

* Eliminating residual risks (risks after controls) is not cost-effective.

Appendix 1 – Risk Assessment Criteria

Impact	Services	Technology	People	Strategic	Legal/Reputational	Financial
Very Minor (1)	<ul style="list-style-type: none"> • Less than 90% of service objectives achieved. 	<ul style="list-style-type: none"> • Minor performance issues or lack of availability of secondary systems or data loss or corruption. 	<ul style="list-style-type: none"> • Minor reportable employee injury. • Increase in number of union grievances. 	<ul style="list-style-type: none"> • Minor instances of actions that are at odds with strategic priorities. 	<ul style="list-style-type: none"> • Small amount of negative media coverage or complaints to City. • Non-lasting damage or no reputational damage • Theft or Fraud under \$1,000. 	<ul style="list-style-type: none"> • Uninsured loss, cost overruns or fines < \$10K • Insured loss < \$100K • Loss of replaceable asset.
Minor (2)	<ul style="list-style-type: none"> • Less than 75% of service objectives achieved. • Unable to perform non-essential service. 	<ul style="list-style-type: none"> • Performance or availability issues with secondary systems or data loss or corruption • Disclosure of non-confidential but embarrassing information. 	<ul style="list-style-type: none"> • Reportable employee injury. • Loss of key staff but able to recruit competent replacements • Significant increase (>10%) in number of union grievances. 	<ul style="list-style-type: none"> • Instances of actions at odds with strategic priorities. 	<ul style="list-style-type: none"> • Complaints elevated to the Director level. • Short-term repairable damage to City's reputation • Public outcry for discipline of employee. • Moderate amount of negative media coverage • Theft or Fraud of \$1,000 to \$10,000. 	<ul style="list-style-type: none"> • Uninsured loss, cost overruns or fines of \$10K to \$100K • Insured loss < \$100K - \$1M • Inefficient processes • City's actions result in reduced economic development.
Moderate (3)	<ul style="list-style-type: none"> • Less than 60% of service objectives achieved. • Unable to perform essential service but alternatives exist. 	<ul style="list-style-type: none"> • Disruptions or performance issues with significant systems or data loss or corruption • Recoverable data loss from an important system. • Minor disclosure of confidential information. 	<ul style="list-style-type: none"> • Multiple employee injuries or long-term disability from one incident. • Inability to retain or attract competent staff. • Increase in stress leave, sick leave or WCB claims. • Work-to-rule union disagreement or short-term strike. 	<ul style="list-style-type: none"> • Numerous actions are at odds with strategic priorities. 	<ul style="list-style-type: none"> • Public/media outcry for removal of management • Long-term damage to City's reputation • Citizen satisfaction survey indicates unacceptable performance. • Complaints elevated to Council level. • Results inconsistent with commitments made to citizens • Theft or Fraud under \$100,000. 	<ul style="list-style-type: none"> • Uninsured loss, cost overruns or fines of >\$100K to \$1M • Insured loss >\$1M to \$10M • Having to delay payments to contractors/suppliers. • >20% current demands cannot be services with existing and approved infrastructure. • City's actions results in lost revenue for significant number of City businesses.

Appendix 1 – Risk Assessment Criteria

Impact	Services	Technology	People	Strategic	Legal/Reputational	Financial
Major (4)	<ul style="list-style-type: none"> • Less than 45% of service objectives achieved. • Unable to perform an essential service where no alternative exists. 	<ul style="list-style-type: none"> • Unrecoverable loss or corruption of data from an important system • Unavailability or major performance issues with significant systems • Disclosure of sensitive or confidential information 	<ul style="list-style-type: none"> • Serious injury of one or more employees • Legal judgment against the City in workplace matter. • Turnover of key employees • Sustained strike of services. 	<ul style="list-style-type: none"> • Numerous actions are significantly at odds with the strategic priorities. 	<ul style="list-style-type: none"> • Public/media outcry for change in CAO or Council • Public or senior officials charged or convicted • Legal judgment against the City in a workplace matter • Integrity breach resulting in decreased trust in City Council or Administration. • Theft or Fraud >\$100,000 	<ul style="list-style-type: none"> • Uninsured loss, cost overruns or fines of >\$1M - \$10M • Insured loss of >\$10M - \$100M • Unable to pay employees and contractors on a time. • Failure to maintain financial capacity to support current demands. • City's actions impair local economic conditions.
Extreme (5)	<ul style="list-style-type: none"> • Less than 30% of service objectives achieved. • Unable to perform several essential services where no alternatives exist. 	<ul style="list-style-type: none"> • Unrecoverable loss or corruption of data from a critical system • Unavailability of critical systems • Major disclosure of sensitive or confidential information 	<ul style="list-style-type: none"> • Death of an employee • Major legal judgment against the City in workplace matter. • Significant turnover of key employees with ELT • Sustained strike of key services 	<ul style="list-style-type: none"> • Many actions are significantly at odds with the strategic priorities. 	<ul style="list-style-type: none"> • Public/media outcry for change in CAO or Council • Senior officials criminally charged or convicted • Severe legal judgment against the City in a workplace matter • Major integrity breach resulting in complete loss of trust in City Council or Administration. • Theft/Fraud >\$1,000,000 	<ul style="list-style-type: none"> • Uninsured loss, cost overruns or fines >\$10M • Insured loss > \$100M • File for bankruptcy • Failure to maintain financial capacity to support current demands. • City's actions significantly impair local economic conditions.

Likelihood	Unlikely (1)	Possible (2)	Probable (3)	Likely (4)	Very Likely (5)
	Less than 20%	>20% but < 40%	>40% but < 60%	>60% but < 80%	80% or more
	Less frequent than every 10 years	May occur in the next 2 years	Will occur this year or next year at least once	May occur regularly this year	Will occur within months may reoccur often