

# TOWN OF BARKMERE

## CONTRACT MANAGEMENT POLICY

DECEMBER, 2010

### CONTEXT

This Contract Management Policy is adopted pursuant to the requirements of Section 573.3.1.2 of the *Cities and Towns Act*.

The goal of the Policy is to ensure a proper contract management for Barkmere, such that an appropriate level of competition exists between those bidding for municipal work and that the Town funds are spent in a cost-effective fashion, for the benefit of its citizens.

This Policy is only intended to be an outline of key measures designed to avoid anti-competitive and wasteful contract granting by the Town's administration. It does not replace applicable provincial laws and regulations, which take precedence in the event of any conflict with the terms of this Policy. Any Director General, member of Council or other Town employee involved in the granting of municipal contracts or the spending of Town funds must familiarize themselves with the relevant provisions of the *Cities and Towns Act* and other legislation and rules that may apply.

In particular, different statutory rules apply regarding contracts which have a value of under \$25,000, those which have a value of between \$25,000 and \$100,000, and those which have a value of more than \$100,000.

The Town takes extremely seriously the procedural measures imposed on its members of Council (i.e. the Mayor and all Councillors) and employees to ensure that the Town's funds are prudently managed.

### 1. Measures regarding independent oversight of the contract bid process

- a) Where a contract is to be granted pursuant to a call for tenders, the Director General shall constitute an *ad hoc* selection committee composed of three (3) members of Council, which committee will oversee the bid process, as applicable, and the granting of the contract. The members of Council on the committee shall be selected by the Director General on a random, rotating basis.
- b) The *ad hoc* selection committee must be constituted prior to the call for tenders.
- c) All members of Council and Town employees shall at all times maintain in strict confidentiality the identity of the three (3) members of Council who are members of the committee.
- d) The tender documents for all contracts shall contain a provision indicating that the bidder must submit with its bid a declaration attesting that none of the bidder nor any of its employees or representatives communicated with, or attempted to communicate with, any member of Council, regarding the contract or the bid process.

- e) If a bidder or any of its employees or representatives communicates with, or attempts to communicate with, any member of Council, regarding the contract or the bid process, the bid of that bidder shall be automatically rejected.

**2. Measures to ensure compliance with any applicable anti-bid-rigging legislation**

- a) The tender documents for all contracts shall contain a provision indicating that the bidder must submit with its bid a declaration attesting that its bid was prepared and filed in the absence of any collusion, communication, agreement, understanding or arrangement between the bidder and any other bidder or other person regarding the bid price or conditions or the bid process.
- b) If the Director General or any member of Council suspects on reasonable grounds the existence of collusion, communication, an agreement, an understanding or other arrangement between bidders or any other person regarding the bid price or conditions or the bid process, the bid of the relevant parties shall be promptly rejected and notice given to the appropriate law enforcement authorities.

**3. Measures to ensure compliance with the Lobbying Transparency and Ethics Act (chapter T-11.011) and the code of conduct for lobbyists adopted under that Act**

- a) Every member of Council or Town employee must exercise the highest level of discretion in any communication with any person regarding the potential granting of a contract. Where applicable, Council members or Town employees shall ensure that every person who communicates directly with him or her for the purposes of obtaining a contract with the Town is registered under the *Lobbying Transparency and Ethics Act*.
- b) The tender documents for all contracts shall contain a provision indicating that the bidder must submit with its bid a declaration attesting that the bidder is familiar with the *Lobbying Transparency and Ethics Act* and that, where any communication was made by the bidder or any of its employees or representatives with a member of Council or a Town employee in connection with the bid process, it was made in full compliance with the terms of such Act.

**4. Measures to prevent intimidation, influence peddling and corruption**

- a) Where a tender is made on the basis of written invitations to bid, the Town shall as much as possible invite different persons or businesses to bid. The identity of those invited to bid shall not be made public until the opening of the bids.
- b) The tender documents for all contracts shall contain a provision indicating that the bidder must submit with its bid a declaration attesting that none of the bidder nor any of its employees or representatives engaged in intimidation, influence peddling or corruption in the bid process.
- c) If the Director General or any member of Council suspects on reasonable grounds the existence of intimidation, influence peddling or corruption regarding the bid process, the

bid of the relevant party or parties shall be promptly rejected and notice given to the appropriate law enforcement authorities.

**5. Measures to prevent conflict of interest situations**

- a) Any member of Council or Town employee participating, directly or indirectly, in the preparation, execution or review of a bid process or in the granting of a contract shall disclose to the Council any conflict of interest or potential conflict of interest situation.
- b) No person in conflict of interest may participate, directly or indirectly, in the preparation, execution or review of any bid process or in the granting of a contract.
- c) The tender documents for all contracts shall contain a provision indicating that the bidder must submit with its bid a declaration attesting that none of the bidder nor any of its employees or representatives has any direct relation with a member of Council or Town employee which has not been previously disclosed in writing and submitted to the Council. For the purpose of this provision, one person or entity shall be deemed to have a direct relation with another where: (i) they are members of the same immediate family (i.e. direct ascendant or descendant, sibling or spouse, whether by common law (*conjoint de fait*) or marriage); or (ii) they are engaged in a common, for profit enterprise.

**6. Measures to prevent any situation likely to compromise the impartiality or objectivity of the call for tenders or the management of the resulting contract**

- a) In any call for tenders, one central contact individual shall have the mandate to provide to bidders all information concerning the bid and the subsequent management of the contract and the bid documents shall provide that the bidders must communicate solely with this individual for the purposes of obtaining information about the bid, the bid process and the contract, as applicable.
- b) Every member of Council or Town employee who is not the person indicated as the central contact individual shall refrain from communicating with any bidders or potential bidders in this regard and shall refer all such inquiries directly to the central contact individual.

**7. Measures to prohibit inappropriate amendments of contracts.**

- a) Every contract issued by the Town shall provide that the contract may not be amended without the written consent of the Town. Any amendment to the financial terms of the contract or any amendment which changes the fundamental nature of the contract shall require the approval of the Council.
- b) Every contract issued by the Town shall include customary contractual measures to ensure and enforce the proper and diligent execution of the services or works performed for the benefit of the Town.

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