
Subject: Supplemental Information Report to the KPMG final audit report on Non-Competitive Procurement Audit (AC-C 11-2020)

Report to: Audit Committee

Report date: Monday, December 7, 2020

Recommendations

1. That this supplemental information report to the KPMG final audit report on Non-Competitive Procurement Audit (AC-C 11-2020) **BE RECEIVED** for information.

Key Facts

- Niagara Region hired KPMG to audit staff's correct use of electronic systems and processes when sourcing contracts.
- The KPMG report identified several areas in need of improvement when documenting and selecting the appropriate requisition type based on the type of purchase. The audit found staff incorrectly documented or mislabelled procurements in 163 instances.
- To ensure compliance moving forward, the Region has developed tools, training sessions, enhanced reporting and will perform subsequent audits to track improvement and ongoing compliance.

Financial Considerations

At the January 2020 Audit Committee, staff were directed to retain the services of an external firm to undertake an audit of all non-competitive procurements.

KPMG completed the audit within the prescribed timeframe at their bid price of \$19,250.00. Staff are confident that there will be no financial impact associated with the implementation of the management action plans, which address the recommendations contained within their report.

Analysis

The purpose of the audit was to provide assurance to Management and Niagara Region's Audit Committee on the effectiveness of the management control framework to support non-competitive procurement activities. The audit tested purchasing activities

to evaluate the current controls and processes related to non-competitive transactions as prescribed in the Procurement By-law. Finally, the audit attempted to determine the effectiveness of current procedures to ensure consistency, compliance, fairness and transparency throughout the corporation.

Supplemental Management Response

In accordance with the Procurement By-law (By-law), Niagara Region continually strives to obtain the best value for the Corporation when procuring goods and services. The By-law prescribes a variety of acquisition methods and staff endeavour to utilize the most appropriate method based on the particular circumstances related to the acquisition. KPMG reviewed the variety of non-competitive procurement options identified in the By-law to determine if an appropriate justification was provided which justified undertaking a non-competitive procurement process.

As defined in the By-law, non-competitive processes include:

- Schedule A: The methods of procurement set out in the By-law shall not apply to purchase of specific goods and services;
- Sole Source: There is only one source of the goods and/or services that meets the requirement of the Corporation;
- Single Source: A non-competitive procurement process to acquire goods and/or services from a specific supplier even though there may be more than one supplier capable of delivering those goods and/or services; and
- Special Circumstances: Where an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public (e.g. COVID-19).

KPMG reviewed 245 non-competitive procurements and concluded that 163 had inadequate documentation within PeopleSoft (PS) ERP which is the Region's financial management and procurement system to justify a non-competitive process.

Following completion of KPMG's testing, Procurement worked with program staff to gather additional information related to the 163 PO (Purchasing Order) cases identified in recommendation 2 of the KPMG report.

The following table provides further explanation of these 163 PO cases of which:

- 30 represent clerical errors in the selection of the PO type or where no justification within PS is required;
- 126 had justification residing outside of PS; and
- 7 have yet to be verified by staff at the time of authoring the report.

These 7 cases, which are still to be verified total \$124,500 or 1 per cent of the total dollars associated with the 163 cases.

Dollars	% of total	# of Procurements	legend	Explanation
\$ 1,749,704	8%	14	A	Schedule A – no documentation required
\$ 2,504,389	11%	3	B	Coding error, competitive process did take place either formal or informal
\$ 1,748,886	8%	13	C	Should have been Schedule A, coding error
\$ 397,000	2%	20	D	Special Circumstance
\$ 3,503,224	16%	36	E	Sole Source (only one source for good or service)
\$ 4,570,898	21%	11	F	Sole source with a contract and council approval
\$ 6,807,496	31%	51	G	Single Source with Council approval
\$ 382,614	2%	8	H	Single Source with staff approval
\$ 124,500	1%	7	I	Non-competitive process under review
\$ 21,788,711	100%	163		

With reference to the table above:

- 14 cases where Schedule A was coded, these transactions require a by-law reference only, as per the Procurement By-law. Examples of these types of purchases include memberships, utility costs, legal fees and CN railway costs.
- 3 cases were coding errors and should have been coded resolved as per a competitive procurement process; Specifically, this case dealt with the winter maintenance contract and extension. A reminder that only informal quotes are required for procurements valued at between \$10,000 and \$25,000 for goods or services.
- 13 cases should have been coded as Schedule A; therefore, transactions would have required a reference only to the Procurement By-law. The incorrect selection was simply an administrative error. Again, examples of these types of purchases include memberships, utility costs, and legal fees.
- 20 cases of Covid-19-related POs. Due to the expediency, these purchase orders should have been coded as Special Circumstance but were coded incorrectly.

Special Circumstance would have required a different level of documentation and justification. In this case, examples related to COVID-related screeners for long-term care (LTC) homes and in instances related to emergency water-wastewater repairs.

- E. 36 cases of Sole Source transaction. While the By-law does include separate definitions for Single and Sole Source, currently, PeopleSoft does not distinguish between them in terms of requisition type; (treated as single source). KPMG, in their report, recommends this distinction be considered for the future. The By-law defines Sole Source as instances where only one supplier is able to provide a good and/or service. Examples of the types of transactions identified were lease payments, purchase of cardboard for recycling, vendor maintenance agreement and a cooperative procurement with St. Catharines Transit.
- F. 11 cases of Sole source with a contract and council approval.
- G. 51 cases of Single Source with Council Contract. As stated above, the By-law does distinguish between single and sole source, in many cases a sole source contract was approved by Council. Examples included specialized chemical purchases, an ambulance purchase, sludge removal with N-VIRO, emergency property repair for water wastewater, and source warehousing waste management.
- H. 8 case of Single Source with staff approval: Specifically, some occurrences were related to food supply in LTC homes wherein the original transaction was below \$10,000 but the scope expanded, therefore staff increased the dollar amount for service. Another example was in Homelessness Services, where services were acquired to meet immediate need (Housing Help Centre for Hamilton-Wentworth)
- I. 7 cases of Non-competitive process are in the process of being reviewed.

As a matter of practice, staff are required at the time of requisitioning goods and/or services, to justify the selection of a non-competitive route (option) although no formal template exists that would track such justification. While there are fields within the requisition document to provide justification however as noted by KPMG there is an opportunity to improve the documentation of justifications for these transactions. The Region is in the process of strengthening these protocols via training to ensure staff provide sufficient information and are consistent in following procedure.

Management accepts and acknowledges the KPMG recommendations for areas to improve and as noted in the management responses, Niagara Region has already actively initiated solutions (some of which have been implemented: Procurement Navigator), which will improve our practices via training, communication, system enhancements, reporting and auditing,

Alternatives Reviewed

No other alternatives were reviewed or considered.

Relationship to Council Strategic Priorities

Value-for-money (VFM) audits were identified and approved as the previous term of Council's Strategic Priority – Advancing Organizational Excellence. The goal of this Strategic Priority was to “Build a strong internal foundation for Niagara Region to enable a more prosperous Niagara.”

Other Pertinent Reports

- AC-C 3-2020 – Non-Competitive Procurement Audit
- AC-C 2-2020 – Procurement Audit Final Report
- AC-C 11-2020 - Final Report on Non-Competitive Procurement Audit

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