Presentations and Delegations

Request for Recommendation
Priorities Committee

Greater | Grand Sudbury
www.city.greatersudbury.on.ca

Type of Decision

Meeting Date	September 22, 2003					Report Date	September 10, 2003			
Recommendation	X	Yes		No		Priority	X	High		Low
		Direction Only				Type of Meeting	X	Open		Closed

Report Title

"Child Care Project: Study of the Child Care Delivery System in the City of Greater Sudbury"- Summary and Recommendations

Policy Implications + Budget Impact

X	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified

The recommendations in this report support Children Services' overall goal of maintaining a viable child care system in Greater Sudbury that meets the changing needs of children and families in our communities.

The direct cost to the City to implement these recommendations is estimated to be $80,000, which is available within the current allocated budget for child care.

X	Background attached

Recommendation

WHEREAS the Children Services Division provided an information report to Council in March 2003 to highlight some of the challenges facing licensed child care; and

WHEREAS the Children Services Division has worked over the summer with Child Care Providers and Laurentian University Professor Ozhand Ganjavi to analyze the child care system and develop responses to these challenges; and

WHEREAS a research report has been completed and several strategies have been

X	Recommendation attached

Recommended by the General Manager

C. Sandblom

Catherine Sandblom
General Manager, Health and Social Services Department

Recommended by the C.A.O.

M. Mieto

Mark Mieto
Chief Administrative Officer

Report Authored By	Division Review
Kate Barber Policy/ Community Developer, Children Services Division	Carmen Ouellette Director, Children Service Division

developed in response to the challenges and recommendations contained in the research report:

THEREFORE BE IT RESOLVED THAT Council receive the research report entitled "Child Care Project: Study of the Child Care Delivery System in the City of Greater Sudbury";

AND FURTHER THAT Council support the recommendations contained in this report related to changes to Children Services Division's reporting requirements for child care service providers and payment structure for subsidized child care rates;

AND FURTHER THAT Council use the results of the research report to advocate to the Provincial and Federal governments for changes to the funding and administration of the child care system in Ontario.

Background

In March 2003, in response to public budget presentations to Council by members of the child care community, an information report from Health and Social Services Department entitled "Status of Licensed Childcare in Greater Sudbury" provided Council with an overview of the licensed childcare system in Greater Sudbury and reviewed the current system of funding for childcare. At that time challenges facing the childcare system in Greater Sudbury and throughout the Province were highlighted and Children Services Division committed to working with the child care community to further analyse the nature and scope of the challenges to child care and to develop resources and strategies to assist child care centres to remain viable despite funding challenges.

To assist with this project, Children Services Division contracted with Laurentian University Commerce professor Ozhand Ganjavi to perform an analysis of the business of child care in Greater Sudbury and to propose some solutions to assist Child Care centres to improve their viability and the Children Services Division to better administer the child care system.

Although Professor Ganjavi's research was not able to come up with a "magic solution" to respond to the challenges facing the child care system, he was able to develop some recommendations and proposals to improve the child care system's ability to cope with funding challenges.

Children Services Division staff formed a working group with representatives of the Child Care community which met to discuss these proposals. This working group was able develop concrete strategies to respond to the proposal which have been endorsed by the Child Care community at large and are acceptable to the Children Services Division. This report will outline these proposed strategies and ask for Council's endorsement to implement them on a pilot basis.

Research Report Summary

The following are a summary of the features and findings of Child Care Project: Study of the Child Care Delivery System in the City of Greater Sudbury":

- For the benefit of readers not familiar with the licensed daycare industry in the City of Greater Sudbury some background material is presented that demonstrates the role of various levels of government, their obligations and their responsibilities.
- Generally, the Early Childhood Educators (ECE) teachers earn low wages all across the province including in the City of Greater Sudbury.
- The province provides some support, in the form of wage subsidy, to maintain the wages of all day care staff. The provincial support is assessed to be inadequate to deal with the extent of the problem. The regulation does not permit the City to move funds between wage subsidy and fee subsidy budgets.
- The licensed day care is a relatively low profit margin business.
- Cost of wages is reported to be around 80% of the total cost of operating licensed daycare centres.
- The wage rate of the ECE at commercial (for-profit) daycare centres on average is 37% lower than average wage rate of the not-for-profit centres.
- Other costs are widely varied among centres; in particular cost of occupancy depends on the arrangements made to use a physical facility.
- Recent changes in tax regulations requiring the not-for-profit organizations to pay property tax and other associated costs such as garbage removal charges has put more burdens on financially weak centres.
- One of the hazards in the day care business is the high variation in demand level across all time horizons (i.e. variation within a day, within a week, and within a year). High levels of variation often result in periodic levels of utilization, which in turn results in financial losses.
- Two of the underlying causes of such variations are: increasing number of parents working part time jobs, and introduction of part-day or part-week kindergarten programs.
- Day cares that avoid deficit often pay lower wages. In fact, the difference between wages paid and fees collected is a very good predictor of financial outcome.
- Financial Data provided annually by centres to CSD is often incomplete and not appropriate for analytical work.
- While all centres are experiencing some degree of financial discomfort, recent cases of financial deficit suggest that the centres with a combination of being large, independent, and located in outlying communities are more susceptible to financial deficit than the rest of the centres.

- One major way to assist the centres is to facilitate simple tools that are used for financial reporting.
- To simplify the system of billing codes provided to CSD by daycare centres, it is suggested that the current system of more than 160 codes be modified to a system of 25 codes.
- It is recommended that City Council bring the child care issues to the Province for the purpose of securing more financial commitment as well as changing regulations which prohibit the City from utilizing the provincial funds in a more effective manner.

Responding to the recommendations:

The report points to several challenges to the child care system:

1. As it is currently funded Child Care is a "low margin" business which has very little flexibility to respond to any increases to costs or fluctuations in demand or utilization.

2. Most (and in some cases all) of the funding received by child care centres is based on fees collected from enrolled children (either paid by their parents or by the City in the case of subsidized children). The fee structure is based on outdated assumptions about child care usage and is not always able to respond to changes to operating expenses. From the City's perspective, the current fee structure is also unduly complex with each centre being paid up to 20 different rates for subsidized children.

3. Differences and inadequacies in centres' reporting to the City make good comparative analysis of the financial situation of child care very difficult and may point to centres' own difficulty tracking and projecting their expenses and spending. This is especially true for smaller child care centres who do not have professional assistance with bookkeeping and financial management.

4. The general low level of staff wages and the large discrepancies between salaries in child care centres present very real recruitment and retention issues in child care centres, which impact directly on operational costs and efficiency.

5. The City has very little flexibility about how Provincial funding earmarked for child care may be spent and is limited in its ability to use unspent dollars to assist child care centres directly.

In response to these challenges, Children Services Division has developed five recommendations for consideration by Council.

Recommendation #1- Advocacy:

Many of these challenges stem from funding decisions and regulations at the Provincial level and may not be responded to in a systemic way at the local level. For this reason, the first recommendation is for City Council to join with other Municipalities in advocating to the Province for more funding for licensed quality child care, and for more local discretion about how the funding may be spent to respond to local issues and priorities.

Recommendations #2 to #5- Operational changes in the administration of Child Care Subsidy:

There are, however, areas where Children Services Division feel that there is some ability to make operational changes which will assist Child Care Centres to remain viable while still upholding the current Provincial requirements as they relate to the provision of mandated Child Care programs.

Recommendation #2- Changes to Reporting Requirements for Child Care Centres

Proposed Change: Children Services Division will simplify the financial and reporting data collected from child care centres by asking only for the yearly audited statement and the Ministry required Wage Subsidy Verification and Utilization Reports.

Rationale: The research found that the current data being collected (yearly budget submissions and quarterly spending reports) was not useful for analytic purposes and child care centres report that it is difficult to prepare with their limited resources. The only reports used consistently by the Children Services Division for planning and allocation purposes and required by the Province are the audited statement and Wage Subsidy Verification and Utilization Reports.

Implementation: Starting January 2004, child care centres will be informed that they need only submit the audited statement and Wage Subsidy Verification and Utilization Reports. The only exception will be independently operated Nursery Schools for whom, because of the very small scale of these operations, the expense of an audited statement would not make sense. These agencies will be permitted to submit unaudited financial statements at the end of their operational year but will still be responsible for submitting the Wage Subsidy Verification and Utilization Reports.

Impact on Child Care Centres: This change will create less work for child care centres, saving money and staff time.

Financial Impact for CGS: There will be no financial impact to this change.

Conformity with Provincial Requirements: The Ontario Child Care Service Management Guidelines require only that all centres receiving Wage Subsidy funding provide audited statements and Wage Subsidy Verification and Utilization Reports.

Recommendation #3- Coordination and Development of Financial and Management Supports for Child Care Centres

Proposed Change: Children Services Division will work with Child Care providers to determine centres' needs around financial and management training and resources and work with City and community resources to develop and make available appropriate supports.

Rationale: Many child care centres are small operations run by parent boards who do not necessarily have financial or management experience or training. The consultant found that some centres would benefit from simple managements tools and resources. The City has expertise in many of these areas that could be shared with centres to assist them in their operations and help them to better forecast budgetary and staffing needs.

Implementation: Children Services Division will consult with child care operators through the City's Child

Care Committee to determine their needs around financial and management support and will facilitate training and resources on an as needed basis.

Impact on Child Care Centres: This will provide valuable and affordable supports to the child care sector which will allow them to improve in areas they identify themselves.

Financial Impact for CGS: This will be implemented with existing resources.

Conformity with Provincial Requirements: There are no Provincial Requirements related to this area.

Recommendations #4 and #5 are a two-part solution to two separate, but related issues. Recommendation #4 responds to the complexity of different rate structures in centres throughout the City which have been created by individual centres and have resulted in over 160 different rates for child care in the City. Recommendation #5 responds to the current system of child care rates' inability to respond to the increased costs of providing a variety of child care services to meet parents needs. Children Services Division feels that these two steps need to be completed together in order to both rationalize child care rates and recognize the true operating costs of child care in our City.

Recommendation #4- Simplification and rationalization of "Child Care Codes" (rate structure for Child Care) which reflect the diversity of types of child care offered

Proposed Change:

The rate structure paid for subsidized child care will be rationalized from 160 separate "child care codes" to a set of 25 codes which are based on the age of the child and the hours of child care provided in order to allow centres to continue to provide flexible child care to meet parents needs while simplifying the payment and billing process. The following table of proposed codes is further explained in the report, it uses averages of the current codes to develop a set of codes with each code related to the "base code" (the 6-9 hour day for a preschool child) by a defined weight or ratio. Using this table, actual rates to be paid are generated by assigning a rate to the 6-9 hour preschool code ("base code") then multiplying by the appropriate weight to generate proportional rates in the other codes.

Proposed Child Care Codes

Age Group	More than 12 hours	9 to 12 hours	6 to under 9 hours	4 to under 6 hours	Under 4 hours
Infant Code	I- 12	I-10	I-9	I-6	I-4
Weight	2.056	1.534	1.304	1.050	0.569
Toddler Code	T- 12	T-10	T-9	T-6	T-4
Weight	1.542	1.244	1.058	0.852	0.461
Preschool	P- 12	P-10	**P-9**	P-6	P-4
Weight	1.408	1.176	**1.000**	0.805	0.436
Kindergarten	K- 12	K-10	K-9	K-6	K-4
Weight	1.430	1.169	0.994	0.801	0.434
School age	S- 12	S-10	S-9	S-6	S-4
Weight	1.386	1.146	0.974	0.784	0.425

A brief description of the method used to arrive at the proposed ratios is presented in Appendix 6 of the report.

Rationale:

The current system of child care codes has been developed in an uncoordinated way over time with each child care centre contributing their own codes based on the particular way they have decided to offer their services. For each separate rate that parents are charged by the child care centre, a new "care code" must be created in order for the City to pay the rate on behalf of the subsidized parent. For example, one child care centre may have started with a full day rate for each age group, then added new rates for each new service they offer, such as before school, after school, part day, evening, extended days, supper club or evening programs. Because of the varying costs of providing different services, centres may have different rates depending on how many meals the child eats, what time of day the service is provided, or even the number of children attending per family. Since each service also usually has a separate rate for each age group, and centres have continued to offer more flexible child care services to meet parents' needs, the number of codes has multiplied very quickly.

This large number of care codes creates a very complex system both for the City and for the child care centres. Monthly billings are time consuming for child care centres to prepare and for City staff to pay. The diversity of codes also mean that it is more difficult for child care centres to predict how much funding they will be receiving from the City on behalf of subsidized families.

The rationalized set of child care codes has been developed using all of the existing codes to create one set of codes that can incorporate and balance the varied costs of providing different types of care, at different times in the day. The hours-based system of payment reflects the diversity of different types of care currently offered and will allow centres to continue to provide new types of services to respond to parents needs, without having to create new care codes.

Implementation:

A working group of child care providers has met with Children Services Division staff and the consultant

several times over the summer to provide input about this proposed system. This group was able to provide valuable suggestions to improve the model and all have been supportive of the change. With the recommendation of the working group, the proposal was taken to the City of Greater Sudbury Child Care Committee, made up of representatives of all Child Care centres, and has been approved by this group.

Analysis was completed based on child care billings over the last year and it was determined that the current system could be adapted reasonably easily to the proposed new system of child care codes and that child care centres could provide the same services within the new system with very little disruption.

With Council's recommendation, the Children Services Division will work with child care centres to prepare for a transition to the new system for January 2004. Administrative changes to the child care payment software program could be made in-house with little difficulty, and training for child care centre operators would be organized to take place in November to introduce child care administrators to the new system of codes and to assist them in converting their existing codes into the new structure.

Impact on Child Care Centres:

The new system of codes will simplify billing for child care centres, free up some administrative time for centre staff and allow centres to better project their revenues from the City, while still providing enough flexibility to provide care for families based on changing community needs.

Financial Impact for CGS:

The development of the new care code structure will not have a financial impact for the City on its own. Until the actual rates are generated there is no cost to this recommendation.

Conformity with Provincial Requirements:

Provincial requirements direct that rates paid for child care subsidy be based on the market rate for child care. The proposed system of rates more closely reflects the changing market for child care based on families' child care needs and allows for continued flexibility to meet these ever-changing needs.

Consolidated Service Managers are mandated by the Province to ensure a viable child care system that meets families' needs. This change will help the City of Greater Sudbury to fulfill this mandate.

The proposed change to the rate structure will be easily adaptable to the "Ontario Child Care Management System", the child care administration database developed and required by the Province.

Recommendation #5- Development of a harmonized, fixed set of rates to be paid for all subsidized children which reflect actual operating costs for child care.

Proposed Change:

Rates paid for subsidized children will move from a system of rates set by child care centres themselves and based on the community's ability to pay, to a standardized, fixed set of rates designed to reflect the true operating costs of child care in the City of Greater Sudbury. The following proposed table of rates was

designed to reflect the full cost of providing all types of child care to families in our community. These rates were developed using the "Proposed Child Care Codes" table explained in recommendation #4, and were set at a level equal to or above the current rates being charged by 80% of centres.

Proposed Harmonized Rates

Age Group	More than 12 hours	9 to 12 hours	6 to under 9 hours	4 to under 6 hours	Under 4 hours
Infant	65.00	55.00	46.00	37.00	21.00
Toddler	49.00	41.00	34.50	28.00	16.00
Preschool	44.50	37.50	31.50	25.50	14.50
Kindergarten	45.00	38.00	32.00	26.00	15.00
School age	44.00	37.00	31.00	25.00	14

Rationale:

The report described recommendations #4 and #5 as two stages to a general strategy to rationalize child care rates and recognize the true operating costs of child care in our City. With input from child care providers, Children Services Division feels that it would be possible to undertake both of the changes at the same time on a pilot basis, thus corresponding with the City's Child Care strategic Plan for 2004-2006.

The report also highlights the funding challenges that child care centres are facing in our community and explained the limited flexibility that municipalities have to assist child care centres to meet these challenges. Operating grants or increased wage subsidy grants have not been approved by the Province, leaving the daily rate paid to child care centres on behalf of subsidized children as the only avenue to address these challenges.

Historically, child care rates have been set by parent boards of directors based on full fee parents' ability to pay. This has meant that child care rates charged by centres, in many cases, have not reflected the true operating costs of the centres and have not been able to keep pace with changes to the market. In some cases rates for the more costly types of service required by subsidized parents (part time or evening/ shift care) have been set at rates reflecting the true cost of care with the result that full fee parents have not chosen to use them.

Accordingly a single set of rates must be set high enough to encompass a large majority of centres. Additionally, there are some services (mostly infant and toddler) that are not offered by a large number of centres. The rates for these services must be high enough to encourage more participation and avoid withdrawal of services by those who currently offer them. Because of these two considerations the set of rates should not be set at the average level. Utilizing figures that are between 80 to 100 percentile of the distribution for each cell should address the above concerns.

While this will have a financial impact on the City, paying rates more reflective of the true costs of child care will assist child care centres to develop a more stable funding base and allow them to continue to provide viable services for the community at large. Analysis based on current usage shows that the cost of paying these "true-cost" rates will still be possible within Children Services Division's existing allocated budget.

Over the time frame of the three year pilot, these rates will be fixed and child care centres will work to adjust their centre's full fee rates to ensure that they are also reflective of the true cost of providing each service. No increase to the fixed rate for subsidy will be considered until such time that the full fee rates in this sector also reflect the true cost of service delivery. Nevertheless, Children Services is committed to work with the child care community to monitor and review on an annual basis the full fee rates and analyse whether or not both sector's are keeping up with the true market cost of providing each service.

Implementation:

A working group of child care providers has met with Children Services Division staff and the consultant met several times over the summer to provide input about these proposed rates. This group was able to provide valuable suggestions based on their experience to improve the model and all have been supportive of the change. With the recommendation of the working group, the proposal was taken to the City of Greater Sudbury Child Care Committee, made up of representatives of all Child Care centres, and has been approved by this group.

Analysis was completed based on previous child care billings and it was determined that for the large majority of centres, the new rates would bring in similar or higher revenues to the centre, allowing centres to better plan for the needs of the centre and to be better able to withstand changes in utilization or costs.

With Council's endorsement, Children Services will work with child care centres to prepare for a transition to the new system for January 2004. Administrative changes to the child care payment software program will be made in-house with little difficulty, and training for child care centre operators will be provided as needed. Centres will have the rest of the year to prepare for any impact this change may have on their centre and will be asked to provide a plan of how they will work to make changes to their full fee structure that will ensure that these rates are also reflective of their true market rate costs.

Centres will also be asked to submit a plan of how these changes may impact their staff's salary rates. It is expected that centres paying lower wages will use potential funding increases to improve staff salaries or benefits and help them with each centre's recruitment and retention challenges.

Impact on Child Care Centres:

This proposal has been developed in part to address financial challenges facing child care centres caused by increasing operating costs. In many cases new rates will provide a larger cashflow thus providing the increased flexibility to offset increasing costs. It is anticipated that centres will be better able to plan for their centre needs and provide more stable revenues to assist them with cash management. Centres will be able to continue to adapt their services to meet the changing needs of parents and will be receive funding at a level that will allow them to continue to offer programs that may be slightly more costly to deliver.

Financial Impact for CGS:

Based on an analysis of previous billings, the projected cost of changing to these new rates may be as high as $400,000 for a twelve month period. The City's contribution of 20% for this increase would be $80,000. This amount falls within the existing allocated child care budget and would allow Children Services to maximize the Provincial allocation for child care. The City's contribution will have significantly high benefit of stabilizing the overall child care system.

In the past, Children Services Division has been able to use unspent fee subsidy dollars to respond to Health and Safety requests of child care centres. The proposed increase in costs created by the new rates may mean there is less funding available for these requests. It is anticipated that child care centres will use the increased revenues to respond to their individual centre's needs, including those that may in the past been address by Health and Safety dollars.

Conformity with Provincial Requirements:

Provincial requirements direct that rates paid for child care subsidy be based on the market rate for child care. The proposed rates more closely reflect the actual cost of providing child care in the Sudbury market. Current rates based on the full fee paying parent's ability to pay, in many cases, do not reflect the true market cost of providing child care.

Consolidated Service Managers are mandated by the Province to ensure a viable child care system that meet families needs. This change will help the City of Greater Sudbury to fulfill this mandate by stabilizing child care centres and allowing them to better respond to changes in need, utilization and costs.

The proposed change to child care rates will be easily adaptable to the "Ontario Child Care Management System", the child care administration database developed and required by the Province.

Request for Recommendation
Priorities Committee

Greater | Grand Sudbury
www.city.greatersudbury.on.ca

Type of Decision

Meeting Date	October 8, 2003					Report Date	October 1, 2003			
Recommendation	√	Yes		No		Priority	√	High		Low
		Direction Only				Type of Meeting	√	Open		Closed

Report Title

Draft of the Purchasing By-Law 2003

Policy Implications + Budget Impact

X	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified

None.

√	Background attached

Recommendation

That the attached Draft of the Purchasing By-law 2003 be passed and adopted to come into effect on January 1, 2004.

	Recommendation attached

Recommended by the General Manager

Doug Wuksinic
General Manager of Corporate Services

Recommended by the C.A.O.

Mark Mieto
Chief Administrative Officer

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Report Authored By	Division Review
Darryl Mathé, Manager of Supplies and Services	Doug Wuksinic General Manager of Corporate Services

Background

Attached is the Priorities Committee Report dated May 14, 2003 outlining the following:

1) History
2) Why pass a new By-law?
3) Philosophy of the new By-law
4) Review of comparable Municipal procurement policies
5) Recommendations
   a) Advertising threshold reduced from the current level of $50,000.00 to $25,000.00
   b) Council awarded contracts - no Council approval for tender contracts within approved budgets.
   c) Request for Proposals over $100,000.00 will require Council approval as in past By-law 2001-2
   d) Summary of the Recommendations

Steps

May 28, 2003

Met with Members of the Sudbury Construction Association and the Sudbury & District Chamber of Commerce regarding the recommendations made to the Priorities Committee on May 14, 2003. The members of both groups endorsed the recommended changes.

July to September, 2003

Draft By-law formulated

September 10, 2003

Draft By-law presented to the General Managers. General Managers to distribute to staff for input and back to Committee by September 22, 2003. Also met with major stakeholders to obtain their input.

September 12, 2003

Posted the Purchasing By-law draft on the City's Web Page and advertised public meeting in Sudbury Star, Northern Life and Le Voyageur.

September 17, 2003

Public Meeting held at 7:00 p.m., in the Council Chamber at Tom Davies Square to present draft of Purchasing By-law and receive input. A copy of the power point presentation is attached for the Committee's information.

October 8, 2003

Recommend adoption of the new Purchasing By-law to the Priorities Committee.

Note: Please be advised there will be a number of consequential amendments as a result of the repeal of the old purchasing by-laws. (Example, Real Property By-law)

Request for Recommendation
Priorities Committee

Greater | Grand Sudbury
www.city.greatersudbury.on.ca

Type of Decision

Meeting Date	WED. MAY 14, 2003					Report Date	MAY 9, 2003			
Recommendation		X	Yes		No	Priority	X	High		Low
			Direction Only			Type of Meeting	X	Open		Closed

Report Title

NEW PURCHASING BYLAW

Policy Implications + Budget Impact

X	This report and recommendation(s) have been reviewed by the Finance Division and the funding source has been identified

No Budget Impact.

x	Background attached

Recommendation

THAT THE REPORT DATED MAY 9, 2003 AS WRITTEN BY DARRYL MATHE, MANAGER OF SUPPLIES AND SERVICES BE APPROVED; AND

THAT STAFF MEET WITH VARIOUS STAKEHOLDERS WITHIN THE COMMUNITY; EG. GREATER SUDBURY CHAMBER OF COMMERCE AND THE LOCAL CONSTRUCTION INDUSTRY, TO REVIEW THE PROPOSED NEW BYLAW, AND REPORT BACK TO COUNCIL ONCE COMPLETED.

	Recommendation attached

Recommended by the General Manager

for Doug Wuksinic

Name and Title: Doug Wuksinic
General Manager of Corporate Services

Recommended by the C.A.O.

Name and Title: Mark Mieto
Chief Administrative Officer

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Revised: January 8, 2003

Report Authored By		Division Review	
Name and Title	Darryl Mathe Manager of Supplies and Services	Name and Title	Doug Wuksinic General Manager of Corporate Services

HISTORY:

THE CITY OF SUDBURY, AREA MUNICIPALITIES AND REGION PURCHASING PRACTICES

Prior to 2001, both the Regional Municipality of Sudbury and the City of Sudbury had adopted purchasing by-laws to regulate the purchase and sale of goods and services within their respective areas of jurisdiction. The Region's by-law had been drafted and passed by the former Regional Council in 1979.

In the City of Sudbury prior to amalgamation, a 1986 version of the purchasing by-law was in use by City departments and, to a lesser extent by the Regional Police Service, for the acquisition and sale of supplies and services.

Area municipalities, including the City of Valley East, did not have a formal purchasing by-law, purchasing department or purchasing agent. These municipalities used the City of Sudbury's purchasing agent as their representative on the Sudbury Regional Buying Group to contract for the purchase of large common supplies and services.

In the late 1990s, a committee was struck at the Regional level for the purpose of revising the Region's purchasing by-law. At that time, staff sought and did obtain input from external stakeholders including Sudbury and District Chamber of Commerce and the Sudbury Construction Association. Although this revised purchasing by-law was largely completed at the time of the proclamation in force of the *City of Greater Sudbury Act*, it was temporarily shelved during the tenure of the Transition Board.

The 1986 City of Sudbury purchasing by-law was adopted by the Transition Board for its use in the acquisition of goods and services. At the same time, both the City of Sudbury and the Region continued to use their respective purchasing by-laws for supply management purposes.

The provisions of Regulation 539/00 passed pursuant to the *City of Greater Sudbury Act*, however, granted power to the Transition Board to pass a by-law or adopt a resolution governing the purchase and sale of goods and services to be acquired by the City of Greater Sudbury subsequent to January 1, 2001.

Essentially, a purchasing by-law needed to be in place to meet the new municipality's day-one operating requirements. As a result, the late 1990s revision of the Region's

purchasing by-law was passed by the Sudbury Transition Board (By-law 2001-2) for and on behalf of the City of Greater Sudbury on November 20, 2000 to be effective on January 1, 2001.

WHY PASS A NEW BY-LAW?

Section 27 of By-law 2001-2 contemplates the performance of an annual "Internal Process Audit" to determine whether or not purchases and dispositions were conducted in accordance with the by-law.

After concluding the first purchasing processes audit in early 2002, the Manager of Internal Audit/Performance Management (the "Auditor") concluded that, although no material non-compliance was noted in the sample selected,

- there was considerable evidence of a general lack of understanding of by-law requirements in given situations;
- the by-law's contents were found to be ambiguous and unclear at best; and
- the by-law was in great need of revision.

The Auditor, after considering whether minor revisions could achieve clarity within the document, determined that:

> "...it is preferable to write a new Purchasing By-law, in a more simplified format..." [IACS Report #2002-3, dated February 27, 2002]

Moreover, Senior Management's 2002 Business Plan included the establishment of a new Purchasing By-law, [Corporate Services, Goal B, Planned Action Number 8]

Presently, purchased goods and services are the largest single expenditure category in the Current Budget. Actual 2002 expenditures (combining "Purchased Services" and "Materials & Operating Expenses") totaled $153 million, 41.2% of the total. (Payroll is the next highest expense, at 33.7%.)

A Purchasing By-law is, therefore, a significant governance document whose purpose is to define procurement processes.

PHILOSOPHY OF THE NEW BY-LAW

A key principle underlying all aspects of the procurement function is to obtain the best value for the taxpayer's dollar while simultaneously treating all suppliers equitably.

In order to accomplish this objective, four cornerstones of the new procurement policy are proposed:

- the competitive process will be used, whenever possible, to procure all municipal supplies and services;

- the competitive process, shall be open, transparent and fair to the suppliers of goods and services; and

- the purchasing process will be clearly and simply defined in order to ensure all stakeholders understand and comply with its requirements;

- efforts will be made to centralize the tendering process.

The proposed key principle and the cornerstones are consistent with core *"Values"* listed in the City of Greater Sudbury's priority setting document *Mapping the Vision - 2003*, where among other things, the municipality is committed to

- *"providing high quality service with a citizen focus"*;

- *"managing the resources in our trust efficiently, responsibly and effectively"*;

- *"maintaining honest and open communication"*; and

- *"creating a climate of trust and a collegial working environment"*.
  [*Mapping the Vision - 2003 - Values*, page 3.]

It is proposed that the new Bylaw will be considerably shortened in length, by excluding procedural details. Only general principles and key process requirements will be set out in the new Bylaw. Reference will be made to the Purchasing Agent's authority to provide further details to users about documentation required to support procurement transactions.

REVIEW OF COMPARABLE MUNICIPAL PROCUREMENT POLICIES

A review of threshold amounts used in the competitive procurement process in major municipalities in the Province of Ontario has formed the basis of the recommended thresholds in the New By-law.

Among Ontario municipalities, the threshold for Council-approved contracts within budget limits range from $10,000.00 at the low end of the scale to unlimited contract values at the upper end of the scale.

Advertising limits, however, are less varied and range from a minimum amount of $10,000.00 to a maximum of $100,000.00. **(See attached Table 1.)**

In addition to the research relating to Ontario municipalities, an internal review of Tenders/Quotations and Proposals for the period January 2002 to December 2002 reveals that 87% of City of Greater Sudbury's projects awarded using such procurement

processes had dollar values in excess of $25,000.00.

RECOMMENDATIONS

The recommendations are based upon the premise that a procurement policy that is open, transparent and fair is driven not by the body within the municipality that awards a contract, but rather the degree to which the municipality's contracts are advertised in the community. Lowering the threshold of contract advertising and removing the requirement of Council approval for contracts within approved budgets will be consistent with the key principle of securing the best value for the taxpayer's dollar while at the same time treating all suppliers equitably.

1. Advertising Threshold

Since an open, transparent and fair competitive procurement process is consistent with the City's stated *Mapping* Value of *"honest and open communication"*, it is recommended that the threshold advertising limit be reduced from the current level of $50,000.00 to $25,000.00. Requests for Proposals will be subject to the same advertising requirements. As well, the New By-law will require that the evaluation criteria, upon which Requests for Proposals (RFP) will be judged, be clearly defined beforehand and be part of the RFP document.

Existing internet-based technologies will enable the City of Greater Sudbury to continue to communicate the advertisement and the award of such projects efficiently and cost-effectively to councillors, bidders and the general public thereby ensuring maximum openness and transparency.

2. Council-Awarded Contracts

In order to streamline and enhance the efficiency of the contract award process, it is recommended that there be no requirement for Council approval of contracts within approved budgets, except in circumstances where for irregular bids exist and in circumstances of RFP awards in excess of $100,000.00. The latter requirement is a carry-over from By-law 2001-2.

Notwithstanding the proposed unlimited ceiling, councillors have full access to staff to answer questions which arise in relation to tenders.

Having regard to the range of numbers appearing in Table 1, the unlimited threshold amount is not unreasonable. As an alternative, Council may wish to increase the threshold amount of Council-approved contracts on a gradual basis having regard to the application of section 271(1)(h) of the *Municipal Act, 2001.* **(Reproduced at Appendix 1).**

That section requires municipalities to establish a policy for the review and evaluation of procurement policies. At fixed time periods, Council may deem it appropriate to increase

(or decrease) the threshold having regard the number and nature of contracts being awarded at certain dollar levels.

Apart from the monetary threshold, events may arise which will compel Council consideration of a contract. Circumstances giving rise to Council approval of a contract include purchases which may only be made from a single source, tenders which give rise to an irregular result and contracts for purchase of goods or services which exceed budget envelopes. Although the definition of "irregular result" is varied, an irregular result may occur when

(a) two or more identical low bids or proposals have been received;
(b) all bids or proposals fail to respond to contract specifications; or
(c) for any reason, the lowest compliant bid or proposal is not in the best interests of the municipality.

Attached as **Table 2** is a Summary of the Recommendations and the likely impact upon internal and external stakeholders.

NEXT STEPS:

The ad-hoc Committee charged with drafting a new Purchasing bylaw seeks agreement in principle from the General Managers' group, at its April 16 meeting. If that agreement is given, the Committee will proceed under the following time-lines:

Wed. MAY 14, 2003	PRIORITIES COMMITTEE: Report and Recommendation to seek public input regarding key principles of new Purchasing Bylaw.
Week of MAY 26, 2003	INVITE KEY MEMBERS OF PUBLIC to a presentation outlining key principles of new Purchasing Bylaw.
Mon. JUN 16, 2003	DEADLINE for public response to new Purchasing Bylaw.
JULY to Mid-AUGUST	DRAFT PURCHASING BYLAW to be formulated.
Week of AUG 18	DRAFT PURCHASING BYLAW circulated to General Managers, for their response and dissemination to staff as they desire.
Mon. SEPT.8, 2003	DEADLINE for responses from General Managers and staff regarding DRAFT PURCHASING BYLAW.
Wed. SEPT. 17, 2003	FINALIZED PURCHASING DRAFT of Bylaw provided to Clerk.
Wed. SEPT. 24, 2003	PRESENTATION TO PRIORITIES COMMITTEE OF PROPOSED PURCHASING BYLAW. Recommendation for Approval sought.
Thurs. SEPT. 25,2003	COUNCIL MEETING: APPROVAL OF PURCHASING BYLAW SOUGHT.
SEPT thru DEC.	PURCHASING AGENT finalizes procedural changes and delivers staff training necessary to ensure smooth transition to new Bylaw.
JANUARY 1, 2004	NEW PURCHASING BYLAW COMES INTO EFFECT.

APPENDIX 1

Municipal Act, 2001

S.O. 2001, CHAPTER 25

Procurement of goods

271. (1) Before January 1, 2005, a municipality and a local board shall adopt policies with respect to its procurement of goods and services, including policies with respect to,

(a) the types of procurement processes that shall be used;

(b) the goals to be achieved by using each type of procurement process;

(c) the circumstances under which each type of procurement process shall be used;

(d) the circumstances under which a tendering process is not required;

(e) the circumstances under which in-house bids will be encouraged as part of a tendering process;

(f) how the integrity of each procurement process will be maintained;

(g) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;

(h) how and when the procurement processes will be reviewed to evaluate their effectiveness; and

(i) any other prescribed matter. 2001, c. 25, s. 271 (1).

Regulations

(2) The Minister may make regulations,

(a) prescribing matters for the purpose of clause (1) (i) and the time within which policies must be adopted under subsection (1) with respect to the prescribed matters;

(b) establishing policies related to the procurement of goods and services by a municipality and a local board;

(c) requiring a municipality and a local board to comply with the policies established under clause (b) when procuring goods and services. 2001, c. 25, s. 271 (2).

TABLE 1

REVIEW OF COMPARABLE MUNICIPAL PROCUREMENT POLICIES

Municipality	*Council Approval required if Contract Price exceeds:*	*Advertising required if Contract Price exceeds:*
Sault Ste. Marie	$10,000.00	$10,000.00
Vaughan	$100,000.00	$100,000.00
City of Cambridge	$100,000.00	$50,000.00
Pickering	$100,000.00	$100,000.00
Thunder Bay	$250,000.00	$40,000.00
Hamilton	$250,000.00	$100,000.00
Markham	$350,000.00	$50,000.00
Region of Niagara	$1,000,000.00	$25,000.00
Region of Durham	No limit	$100,000.00
Region of Peel RFP over $250,000.00	No limit Yes	$100,000.00
Region of York	No limit	$100,000.00
Mississauga	No limit	$50,000.00
Ottawa	No limit	$25,000.00/Goods & Services $50,000.00 Consultants
Region of Halton	No limit	$100,000.00
London	No limit	$100,000.00
Kingston	No limit	$50,000.00
***Proposed City of Greater Sudbury By-law**	**No limit**	**$25,000.00**

TABLE 2

Purchasing Bylaw 2003

WHAT is Changing ?	WHY ?	IMPACT on INTERNAL USERS	IMPACT on EXTERNAL STAKEHOLDERS
LOWER the threshold at which a FORMAL process is used, from $ 50,000 to $ 25,000.	We do it now anyway; with electronic formats, advertising purchasing opportunities to all suppliers is the norm and adds no administrative burden.	Minimal; advertising time-line does not have to be onerous. Greater assurance that the "best deal" is obtained.	Fairness and transparency of process will be appreciated by all suppliers.
REMOVE, or LOWER, requirement for COUNCIL APPROVAL of budgeted regular tender awards; Current requirement: contracts > $100,000.	Requiring Council approval when low bidder is awarded adds unnecessary time delays; **this information is available on City's website**.	Removes a time barrier and administrative burden (report to Council).	Contractor can begin work more quickly.
REMOVE requirement for a PURCHASE ORDER (PO) to support purchases under $5,000. Currently, any purchases greater than $ 500 require a PO.	Relatively low dollar purchases; are mostly covered by vendors of record, using Blanket Orders or procurement cards set up by Purchasing Agent or designate; will simplify process, reduce paper esp. at Payables.	Will remove a paper burden. Buyers can still request Legacy informal PO # (if no BO exists), for vendor reference, or if purchaser does not have a procurement card.	Vendor can still be provided a PO/BO #, where purchaser does not have a procurement card. For vendor, process does not change (except faster payment if a procurement card used).
REDUCE the types of purchases (currently enumerated in Schedule D) which are deemed "exceptions" to usual purchasing methods.	To increase the ability of all qualified vendors to bid on business.	Adds a time element to purchases previously expedited directly.	Fairness and transparency of process will be appreciated by all suppliers.

CITY OF GREATER SUDBURY

PURCHASING BY-LAW DRAFT

CITY OF GREATER SUDBURY

Proposed Purchasing By-Law

Introduction

- Darryl Mathe, Purchasing Agent and Manager of Supplies & Services is responsible for the Purchasing By-Law.

- Questions will be addressed at any time during the presentation. When asking a question, please indicate your name and who you represent.

Why pass a new By-Law?

- Through a City Internal Process Audit it was concluded the present by-law was not user-friendly and was unclear and confusing. On February 22nd, 2002 it was recommended that a new Purchasing By-Law be drafted in a more simplified format.

- Presently, purchased goods and services are the largest single expenditure category in the Current Budget. Actual 2002 expenditures (combining "Purchased Services" and "Materials and Operating Services") totalled 41.2% of the total budget. (Payroll is the next highest expense at 33%)

Why pass a new By-Law?

- In addition to this recommendation, the Municipal Act, 2001, requires that by January 1, 2005 municipalities have in place procurement policies which contain specific requirements. The present by-law would not meet the threshold requirements of the Municipal Act, 2001.

- A purchasing by-law is therefore a significant governance document whose purpose is to define procurement processes, establish procurement goals, ensure integrity of procurement processes and describe the manner in which the by-law will be regularly reviewed.

Philosophy of the New By-Law

- A key objective underlining all aspects of the procurement function is obtaining the best value for the **TAXPAYER'S** dollar while simultaneously treating all suppliers equitably.

Philosophy of the New By-Law

- In order to accomplish this objective, four cornerstones of the new procurement policy are proposed:
  - The competitive process will be used, whenever possible, to procure all municipal supplies and services.
  - The competitive process shall be open, transparent, and fair to the suppliers of goods and services.
  - The purchasing process will be clear and simple.
  - Efforts will be made to centralize the tendering process.

Philosophy of the New By-Law

- A staff committee composed of Steve Vrbanac and Heather Salter (Solicitors from the City's Legal Services Division), Sue McCullough from Internal Audit and Darryl Mathe from Supplies and Services, have worked on a new purchasing by-law draft for the past twelve months.

- Among other things, the committee has reviewed comparable municipal procurement policies throughout the province.

Recommendations and Changes

The following are the major recommendations and changes that are contained in the new draft Purchasing By-Law.

1. Advertising threshold limit be reduced from the current level of $50,000 to $25,000.

2. Council Awarded Contracts

   TENDERS: In order to streamline the efficiency of the contract award process, it is recommended that there be NO requirement for Council approval of contracts/tenders within approved budgets except in circumstances where irregular bids exist.

Recommendations and Changes

2. Council Awarded Contracts (Continued)

   REQUEST FOR PROPOSALS (RFP's): All RFP's over $100,000 must be approved by Council as is the case in the present By-Law. As well, an evaluation criteria upon which RFP's will be judged shall be clearly defined in advance of the RFP advertisement and shall be part of the RFP document.

3. Financial Leases over $100,000 or combination of leases of similar assets adding up to $500,000 must be approved by Council.

Recommendations and Changes

4. Bids in excess of project estimate: The agent and General Manager jointly may enter into negotiations with the lowest compliant bidder.

5. Bid irregularities – see Schedule C.

6. Total Acquisition Cost – evaluation of quality and service in assessment of bid, and the sum of all costs as defined in definition.

Recommendations and Changes

7. A procedural manual is being formulated to support the By-Law and will contain forms (standardized where possible) and procedures appropriate for the purchase of goods, services and construction.

8. In order to ensure that the By-Law remain an up-to-date purchasing tool, the By-Law requires that a By-Law review shall be conducted during each Council term.

Steps

- Please send your input, via e-mail, to darryl.mathe@city.greatersudbury.on.ca by Friday, September 19th, 2003.

- The draft of the recommended Purchasing By-Law will be brought to Council via the Priorities Committee on October 8th, 2003.

- The new Council-approved Purchasing By-Law will come into effect on January 1st, 2004.

CITY OF GREATER SUDBURY

BY-LAW 2003-xxx

BEING A BY-LAW OF THE CITY OF GREATER SUDBURY GOVERNING PROCUREMENT POLICIES AND PROCEDURES AND TO REPEAL BY-LAW 2001-2

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CITY OF GREATER SUDBURY

PURCHASING BY-LAW 2003-xxx

BEING A BY-LAW OF THE CITY OF GREATER SUDBURY GOVERNING PROCUREMENT POLICIES AND PROCEDURES AND TO REPEAL BY-LAW 2001-2

WHEREAS Section 271 of the *Municipal Act, 2001* imposes upon municipalities the obligation to adopt policies with respect to the procurement of Goods and Services;

AND WHEREAS this By-law establishes the authority and sets out the methods by which Goods, Services or Construction will be purchased and disposed of for the purposes of the City of Greater Sudbury subject to certain exceptions set out herein;

AND WHEREAS the Council of the City of Greater Sudbury has by resolution adopted on October , 2003 authorized the enactment of this by-law and the repeal of By-law 2001-2 and amendments thereto, formerly governing the subject matter of this By-law;

NOW THEREFORE the Council of the City of Greater Sudbury enacts as follows:

PART I - SHORT TITLE

1. This By-Law may be cited as the "Purchasing By-Law".

PART II - PURPOSES, GOALS AND OBJECTIVES

2. The purposes, goals and objectives of this By-law and of each of the methods of procurement authorized 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;

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 for persons with disabilities to the Goods, Services and Construction purchased by the City of Greater Sudbury;

g. To attempt to reduce the amount of solid waste requiring disposal through the purchase of environmentally responsible Goods and Services.

PART III - DEFINITIONS AND SCHEDULES

3. (1) The words and phrases listed below when used in this By-law shall have the following meanings ascribed to them:

(a) "AGENT" means the Manager of Supplies and Services of the City of Greater Sudbury;

(b) "APPROVED INVOICE" means an original supplier's invoice issued at the time of purchase of low dollar Goods or Services not exceeding $499 and which bears both the signature of an appropriately authorized employee and appropriate account number(s);

(c) "AWARD","AWARDED" and "AWARDING" mean authorization to proceed with the purchase of Goods, Services or Construction from a chosen supplier;

(d) "BID" means an offer or submission from a supplier in response to a Bid Solicitation;

(e) "BID BOND" means the form of security required by the terms and conditions of Bid Solicitation documentation to guarantee that the successful bidder

enters into a Contract with the City of Greater Sudbury, as required by Section 20 of this By-law;

(f) "BID SOLICITATION" means a formal request for Bids that may be in the form of a Request for Tender or Request for Proposal;

(g) "BLANKET PURCHASE ORDER" means a Contract between the City of Greater Sudbury and a supplier for the supply of regularly ordered Goods or Services at specified unit prices with, where possible, maximum dollar limits, or discounts, but not specified quantities;

(h) "CHIEF ADMINISTRATIVE OFFICER" means the Chief Administrative Officer of the City of Greater Sudbury;

(i) "CHIEF OF POLICE" means the Chief of Police as appointed by The Greater Sudbury Police Services Board pursuant to the *Police Services Act*;

(j) "CONSTRUCTION" means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering design or architectural work, but does not include professional services related to the construction contract unless they are included in the specifications for the procurement;

(k) "CONTRACT" means any agreement, regardless of form or title, for the lease purchase or disposal of Goods, Services or Construction authorized in accordance with this By-law;

(l) "COUNCIL" means the Council of the City of Greater Sudbury;

(m) "COUNCIL APPROVED BUDGETS" means Council approved department

budgets including authorized revisions, or where applicable, Council approved budgets of local boards or utilities to which this By-law applies;

(n) "DEPARTMENT" means an organizational unit of the City of Greater Sudbury headed by a General Manager;

(o) "DIRECTOR OF HUMAN RESOURCES" shall mean the Director of Human Resources of the City of Greater Sudbury;

(p) "DIRECTOR OF LEGAL SERVICES" shall mean the Director of Legal Services of the City of Greater Sudbury;

(q) "ELECTRONIC ADVERTISING" means the use of a computer based system directly accessible by suppliers irrespective of their location that provides suppliers with information related to Bid Solicitations;

(r) "EMERGENCY" means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the City of Greater Sudbury, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;

(s) "FAIR MARKET VALUE" means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arms-length where fully informed and not under any compulsion to transact;

(t) "FINANCING LEASE POLICY" means the policy passed by Council under the authority of the Municipal Act, 2001, S.O. c.25, section 110;

(u) "GENERAL MANAGER" means the person appointed by Council to be responsible for the operation of a Department and/or their designate and includes the person appointed to the position of Chief Administrative Officer;

(v) "GOODS" means moveable property including,

(i) the cost of installing, operating, maintaining or manufacturing such moveable property;

(ii) raw materials, products, equipment and other physical objects of every kind and description;

(w) "IN HOUSE BID" means a Bid made by a Department and authorized by the General Manager of that Department, submitted in response to a Bid Solicitation, where the provision of the Goods, Services or Construction will be provided entirely by the employees of the City of Greater Sudbury;

(x) "LOWEST COMPLIANT BID" means the Bid that would provide the City of Greater Sudbury with the desired Goods, Services or Construction at the lowest Total Acquisition Cost, meets all the specifications and contains no irregularities requiring automatic rejection;

(y) "PROFESSIONAL SERVICES" means persons having a specialized knowledge or skill for a defined Service requirement including,

(a) architects, engineers, designers, management and financial consultants; and

(b) firms or individuals having specialized competence in environmental, planning or other disciplines;

(z) "PROPOSAL" means an offer submitted in response to a Request for Proposal, acceptance of which may be subject to further negotiation;

(aa) "PURCHASE ORDER" means a Contract between the City of Greater Sudbury and a supplier to supply a specific quantity of Goods or specific set of Services or specific type of Construction defined by such things as time period, location(s) and price;

(bb) "PURCHASING CARD" means a card issued in accordance with the Purchasing Card Policy, to purchase Goods and Services;

(cc) "REQUEST FOR PROPOSAL" means a Bid Solicitation that is used to acquire Goods, Services or Construction, the suitability of which is dependant upon non-price factors and which may result in further negotiation between the parties;

(dd) "RISK MANAGEMENT/ INSURANCE OFFICER" shall mean the Risk Management/ Insurance Officer of the City of Greater Sudbury;

(ee) "SERVICES" includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the City of Greater Sudbury in accordance with terms of employment;

(ff) "TENDER" means a publicly advertised Bid Solicitation;

(gg) "TOTAL ACQUISITION COST" means an evaluation of quality and service in the assessment of a Bid and the sum of all costs including purchase price, all taxes, warranties, local service costs, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs for determining the Lowest Compliant Bid;

(hh) "TREASURER/DIRECTOR OF FINANCE" means the Treasurer/Director of

Finance of the City of Greater Sudbury .

(2) Schedules A, B and C attached hereto form part of this By-law.

PART IV - GENERAL PROCUREMENT POLICY

APPLICATION

4. (1) The procedures in this By-law shall be followed to Award a Contract or to recommend to Council that a Contract be Awarded.

(2) Subject to section 27 and section 4(3), a General Manager may purchase or contract for the Goods and Services listed in Schedule "A" to this By-law without following the procedures set out herein.

(3) The procurement of legal services shall be contracted for by the Director of Legal Services and Director of Human Resources.

(4) The purchase of Goods and Services listed in Schedule "A" to this By-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council Approved Budgets.

(5) The following local boards and corporations are bound by this By-law and this By-law shall apply with necessary modification to such local boards and corporations:

Greater Sudbury Police Services Board

Greater Sudbury Public Library Board

City of Greater Sudbury Development Corporation

Sudbury Community Development Corporation

Sudbury Airport Community Development Corporation

Greater Sudbury Housing Corporation.

(6) For all purposes of this By-law and this Section, all references to Council shall mean the governing body of each of the following local boards and corporations:

Greater Sudbury Police Services Board

Greater Sudbury Public Library Board

City of Greater Sudbury Development Corporation

Sudbury Community Development Corporation

Sudbury Airport Community Development Corporation

Greater Sudbury Housing Corporation.

(7) For all purposes of this By-law and this Section, all references to the Chief Administrative Officer and General Managers of the City shall mean the following persons associated with the relevant local board and corporation:

Greater Sudbury Police Services Board: Chief of Police or designate;

Greater Sudbury Public Library Board: General Manager of Citizen and Leisure Services or designate;

City of Greater Sudbury Development Corporation: General Manager of Economic Development and Planning Services or designate;

Sudbury Community Development Corporation: General Manager of Economic Development and Planning Services or designate;

Sudbury Airport Community Development Corporation: General Manager of Citizen and Leisure Services or designate;

Greater Sudbury Housing Corporation: General Manager of Economic Development and Planning Services or designate.

RESTRICTIONS

5. (1) No Contract for Goods, Services or Construction may be divided into two or more parts to avoid the application of the provisions of this By-law.

(2) No Contract for Services shall be Awarded where the services would result in the establishment of an employee - employer relationship.

(3) No employee shall purchase, on behalf of the City of Greater Sudbury, any Goods, Services or Construction, except in accordance with this By-law.

(4) Where an employee involved in the Award of any Contract, either on his or her own behalf or while acting for, by, with or through another person, has any pecuniary interest, direct or indirect, in the Contract, the employee,

(a) shall immediately disclose the interest to the General Manager involved in the Award of the Contract and shall describe the general nature thereof;

(b) shall not take part in the Award of the Contract; and

(c) shall not attempt in any way to influence the Award of the Contract.

(5) An employee has an indirect pecuniary interest in any Contract in which the City of Greater Sudbury is concerned, if,

(a) the employee or his or her spouse or same-sex partner

(i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the Contract,

(ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the Contract, or

(iii) is a member of an incorporated association or partnership, that has a pecuniary interest in the matter; or

(b) the employee or his or her spouse or same-sex partner is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the Contract.

(6) All Council members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.

TOTAL ACQUISITION COST

6. Where this By-law prescribes dollar limits, the Contract amount shall be the estimated Total Acquisition Cost less any rebates.

PRESCRIBED COUNCIL APPROVAL

7. Despite any other provisions of this By-law, the following Contracts are subject to Council approval:

(a) any Contract requiring approval from the Ontario Municipal Board;

(b) any Contract where the Total Acquisition Cost is greater than the Council Approved Budget;

(c) any Contract where an irregularity precludes the Award of a Contract to the supplier submitting the lowest bid;

(d) any Contract where a Good, Service or Construction is available from only one source of supply and the Total Acquisition Cost of such Good, Service or Construction exceeds $25,000; or where a Bid Solicitation has been restricted to a single source of supply because standardization or compatibility is the overriding consideration;

(e) any Contract where the Request for Proposal method of purchase of Goods, Services or Construction is being used and the estimated value of the Goods, Services or Construction exceeds $100,000;

(f) when any Contract is required in accordance with the City of Greater Sudbury's Financing Lease Policy.

RESPONSIBILITIES AND AUTHORITIES

8. General Managers shall be responsible for and shall have authority for all procurement activity and decisions within their Departments and may delegate their authority, where appropriate.

NOTIFICATION OF PROCUREMENT OPPORTUNITIES

9. (1) Notification of procurement opportunities for Goods, Services or Construction exceeding a Total Acquisition Cost of $25,000 shall be made by Electronic Advertising and may be used for any other purchase.

(2) Notification of procurement opportunities for Goods, Services or Construction may be supplemented by other means of notification where appropriate.

PART V - PROCUREMENT PROCEDURES

PURCHASING PROCEDURES

10.(1) The Agent shall establish purchasing procedures consistent with the Purposes, Goals and Objectives set out in this By-law relating to:

(a) the form, content and use of forms, whether electronic or printed, including requisitions, purchase orders, bonds, letters of credit and other forms of guarantee or surety, tender, proposal and other contract documents;

(b) the identification of those Goods, Services or Construction which, are more effectively acquired through cooperative purchasing;

(c) the process to be followed in the issuing, receipt and evaluation of Tenders and Requests for Proposals including the option of submitting documentation, payment or signature by electronic means pursuant to the *Electronic Commerce Act*, S.O. 2000, c.17, as amended;

(d) any other aspect of process or procedure not specifically provided for in this By-law.

(2) Where, in the opinion of the Agent, circumstances giving rise to an issue of adherence or non-adherence to the requirements of this By-law which cannot be resolved to the satisfaction of the Agent, the Agent shall advise the General Manager of Corporate Services who shall have the authority to determine the appropriate action.

PURCHASING CARDS

11. The Agent is responsible for the Purchasing Card program outlined in the City of Greater Sudbury's Purchasing Card Policy. The Purchasing Card Policy shall adhere to this Purchasing By-law.

BLANKET PURCHASE ORDERS

12.(1) A Blanket Purchase Order may be used where:

(a) one or more Departments repetitively order the same Goods, Services or Construction and the actual demand is not known in advance; or

(b) a need is anticipated for a range of Goods, Services or Construction for a specific purpose and for which convenience and location are major factors but the actual demand is not known at the outset.

(2) The Agent shall establish and maintain Blanket Purchase Orders.

(3) To establish prices and select sources, the Agent shall employ the provisions contained in this by-law for the acquisition of Goods, Services or Construction.

(4) More than one supplier may be selected where it is in the best interests of the City of Greater Sudbury and the Bid Solicitation allows for more than one.

(5) The expected quantity of the specified Goods, Services or Construction to be purchased over the time period of the agreement will be as accurate an estimate as practical and be based, to the greatest extent possible, on previous usage adjusted for any known factors.

REQUEST FOR EXPRESSIONS OF INTEREST

13. A General Manager or the Agent may conduct a request for expression of interest for the purposes of determining the availability of suppliers of any Goods, Services or Construction and for the purposes of keeping a list of available suppliers.

PURCHASING METHODS

14. The purchasing methods for the purchase of Goods, Services or Construction are listed in Schedule "B".

PURCHASES NOT EXCEEDING FIVE HUNDRED ($500) DOLLARS

15.(1) The Treasurer/Director of Finance shall have authority to establish petty cash funds in such an amount to meet the requirements of a Department for the acquisition of Goods, Services or Construction having an individual Total

Acquisition Cost of $500 or less.

(2) Purchases made pursuant to this Section shall be made from the competitive market place wherever possible and may be made by using an Approved Invoice, Petty Cash, a Purchasing Card or a Purchase Order, subject to Section 27.

(3) All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the Treasurer/Director of Finance.

PURCHASES BETWEEN FIVE HUNDRED ($500) DOLLARS AND TWENTY-FIVE THOUSAND ($25,000) DOLLARS

16.(1) Purchasing requirements for Goods, Services or Construction having an estimated Total Acquisition Cost between $500 and $25,000 may be made by using either a Purchasing Card or Purchase Order, subject to Section 27.

(2) Single purchases of Goods, Services or Construction using a Purchasing Card shall not exceed $5,000.

(3) In appropriate circumstances, the Request for Proposal or the Request for Tender processes may be utilized for the purchase of Goods, Services or Construction in this Total Acquisition Cost range.

(4) The procedure used to purchase the Goods, Services or Construction in this Total Acquisition Cost range shall demonstrate that Fair Market Value was achieved.

PURCHASES EXCEEDING TWENTY-FIVE THOUSAND ($25,000) DOLLARS REQUEST FOR TENDER

17.(1) A Request for Tender shall be used for purchases exceeding $25,000 where all of the following criteria apply:

(a) two or more sources are considered capable of supplying the requirement;

(b) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria; and

(c) it is intended that the Lowest Compliant Bid will be accepted without negotiations.

(2) The General Manager in charge of the Bid Solicitation or the Agent, on behalf of such General Manager, may Award Contracts emanating from a Request for Tender provided that

(a) the Award is to the Lowest Compliant Bidder;

(b) sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and

(c) the provisions of this By-law are complied with.

(3) The General Manager or Agent shall follow the provisions of Section 27 regarding the form of contract required to complete the purchase.

REQUEST FOR PROPOSAL

18.(1) A Request for Proposal shall be used where one or more of the criteria for issuing a Request for Tender cannot be met such as:

(a) owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone; or

(b) it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.

(2) Where the Contract price is anticipated to be $100,000 or greater and the Request for Proposal method of procurement is utilized, the Agent shall be a member of the committee formed to evaluate the response to the Request for Proposal.

(3) Every Request for Proposal shall contain an evaluation grid.

(4) The Agent shall maintain a list of suggested evaluation criteria for assistance in formulating an evaluation grid, which criteria may include, but are not limited to, factors such as approach, equipment and facilities, experience and qualifications, methodology, past performance and scheduling, price and strategy.

(5) The General Manager in charge of the particular Bid Solicitation or the Agent, on behalf of such General Manager, may Award Contracts emanating from a Request for Proposal provided that:

(a) the estimated Total Acquisition Cost of the Goods, Services or Construction does not exceed $100,000;

(b) the Award is to made to the supplier meeting all mandatory requirements and determined, by reference to an evaluation grid, as providing best value;

(c) sufficient funds are available and identified in appropriate accounts within Council Approved Budgets; and

(d) the provisions of this By-law are complied with.

(6) The General Manager and Agent shall follow the provisions of Section 27 regarding the form of contract required to complete the purchase.

IN HOUSE BIDS

19. In House Bids may be used for the procurement of Goods, Services or Construction in circumstances where the Chief Administrative Officer considers it appropriate to do so.

GUARANTEE OF CONTRACT EXECUTION AND PERFORMANCE

20(1) The Agent may require that a Bid be accompanied by a Bid Bond or other similar security to guarantee entry into a Contract. Unless otherwise specified, in circumstances where a Bid Bond or other security is required, the refundable deposit requirements for Requests for Tenders and Requests for Proposals shall be as follows:

ESTIMATED TOTAL ACQUISITION COST	MINIMUM DEPOSIT REQUIRED
$25,000 or less	5%
Greater than $25,000	10%

(2) Prior to the commencement of the work, the successful bidder may be required to provide the following security in addition to the security referred to in Subsection 20(1):

(a) a performance bond to guarantee the performance of a Contract, and

(b) a payment bond to guarantee the payment for labour and materials to be supplied in connection with a Contract.

(3) The Agent shall select the appropriate means to guarantee execution and performance of the Contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money order and, where appropriate, a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the City of Greater Sudbury.

(4) Prior to the commencement of work, evidence of insurance coverage satisfactory to the Risk Management/ Insurance Officer must be obtained, ensuring indemnification of the City of Greater Sudbury from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligations under the Contract and from any other risk determined by the Risk Management/Insurance Officer as requiring coverage.

(5) Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board shall be obtained ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.

CONTRACT WITHOUT BUDGETARY APPROPRIATION

21. Where a requirement exists to initiate a project for which Goods, Services or Construction are required and funds are not contained within the Council Approved Budget to meet the proposed expenditure, the General Manager shall, prior to commencement of the purchasing process, submit a report to Council containing:

(a) information surrounding the requirement to contract;

(b) the terms of reference to be provided in the Contract;

(c) information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes, or on the requirement of additional funds.

BIDS IN EXCESS OF PROJECT ESTIMATES

22(1) Where Bids are received in response to a Bid Solicitation but exceed project estimates, the General Manager in charge of the Bid Solicitation and the Agent, jointly, may enter negotiations with the Lowest Compliant Bidder to achieve an acceptable Bid within the project estimate.

(2) Negotiations shall be conducted in accordance with the guidelines established by the Canadian Construction Documents Committee.

EMERGENCY PURCHASES

23(1) Where an Emergency exists requiring the immediate procurement of Goods, Services or Construction, a General Manager or the Agent may purchase the required Goods, Services or Construction by the most expedient and economical means, notwithstanding any other provision of this By-Law. As soon as practicable thereafter, the Agent shall comply with Section 27 of this By-law.

(2) For all Emergency purchases made by a General Manager, the General Manager shall as soon after the purchase as reasonably possible, notify the Agent with a written report detailing the circumstances of the Emergency. A report to Council shall be made by the General Manager and the Agent in all circumstances where the Emergency purchase exceeds $25,000.

COOPERATIVE PURCHASING

24(1) The City of Greater Sudbury may participate with other government agencies or public authorities in cooperative purchasing where it is in the best interests of the City of Greater Sudbury to do so and where the purposes, goals and objectives of this By-law are complied with by such government agencies and public authorities.

(2) The policies of the government agencies or public authorities calling the cooperative Bid Solicitation are to be the accepted policy for that particular purchase.

IDENTICAL TENDERS

25(1) If the Lowest Compliant Bids from two or more bidders are identical in Total Acquisition Cost or unit price, the Agent, with the consent of the General Manager in charge of the Bid Solicitation, is authorized to enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations.

(2) The Agent shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the bidders concerned. The Agent shall include as part of the record, a report concerning the results of such negotiations.

(3) When negotiations are not successful in breaking the identical tenders, then the successful bidder shall be determined by coin toss. The coin toss shall be performed in the presence of the General Manager in charge of the Bid Solicitation, the Agent and the Director of Legal Services, or their designate(s).

BID IRREGULARITIES

26. The process for administering irregularities contained in Bids pertaining to all Contracts shall be as set out in Schedule "C". For an irregularity listed in the first column of Schedule "C", the applicable response is set out opposite to the irregularity in the second column of Schedule "C".

CONTRACTUAL AGREEMENT

27(1) The Award of Contract over $500 shall be made by way of an agreement, or as a Purchase Order.

(2) A Purchase Order is to be used when the resulting Contract requires only the City of Greater Sudbury's standard contractual terms and conditions.

(3) A formal agreement is to be used when the resulting Contract is complex and will contain terms and conditions other than the City of Greater Sudbury's standard contractual terms and conditions.

(4) It shall be the responsibility of the General Manager in charge of the particular Bid Solicitation, with the Agent and/or the Director of Legal Services, to determine if it is in the best interests of the City of Greater Sudbury to establish a formal agreement with the supplier.

(5) Where it is determined that a formal agreement is required, the formal agreement shall be reviewed and approved for execution by the Director of Legal Services, or their designate.

(6) Where a formal agreement is required, the General Manager shall execute the agreement in the name of City of Greater Sudbury.

(7) Where a formal agreement is issued, the Agent may issue a Purchase Order incorporating the formal agreement.

(8) Where a formal agreement is not required, the Agent shall issue and execute a Purchase Order incorporating the relevant terms and conditions.

SURPLUS AND OBSOLETE GOODS

28(1) The Agent must dispose of all Goods for which a Department no longer has use and the Agent may use any method for disposal in the City of Greater Sudbury's best interests, including without limitation, public auction, public tender, trade, negotiated sale or transfer to another Department.

(2) An employee who has the responsibility of declaring Goods surplus or obsolete, or for sending items to a public auction shall not bid on or personally obtain any Goods that the employee has declared as surplus.

(3) No Council Member or employee shall be permitted to receive surplus or obsolete Goods except by purchase at public auction, public tender, trade or negotiated sale.

PART VI - OTHER

ACCESS TO INFORMATION

29. The disclosure of information received relevant to the issue of Bid Solicitations or the Award of Contracts emanating from Bid Solicitations shall be in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended.

BY-LAW REVIEW

30(1) This By-law shall be reviewed prior to the end of each Council term and any amendment thereto shall be made prior to the inaugural meeting of the next Council.

(2) The review shall determine how effective this By-law has been in achieving the objectives set out in Section 2 of the By-law as well as the requirements of the *Municipal Act, 2001*, as amended.

(3) The review may be undertaken by an ad-hoc committee of Council, the final result of which shall be comprised of a report to Council, by the Agent.

EFFECTIVE DATE

31. This By-law shall come into force and take effect on the 1st day of January, 2004.

REPEAL

32. By-law 2001-2 and all amendments thereto are hereby repealed on the effective date of this By-law.

Read a First, Second and Third time and finally passed this 1st day of January, 2004.

_____

MAYOR

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CLERK

SCHEDULE "A"

The purchasing methods described in this by-law do not apply to the following Goods and Services:

1. Training and Education
   (1) Registration and Tuition fees for conferences, conventions, courses and seminars
   (2) Magazines, books and periodicals unless the purchase of such magazines books and periodicals are subject to value-added services
   (3) Memberships
2. Refundable Employee/Councillor Expenses
   (1) Advances
   (2) Meal Allowances
   (3) Travel and Entertainment
   (4) Miscellaneous - Non-Travel
3. Employer's General Expenses
   (1) Payroll Deductions Remittances
   (2) Medical
   (3) Licenses (Vehicle, Firearms, etc.)
   (4) Debenture Payments
   (5) Grants to Agencies
   (6) Damage Claims
   (7) Petty Cash Replenishment
   (8) Tax Remittances
4. Professional and Special Services
   (1) Committee Fees

(2) Legal fees and other Professional Services related to litigation or legal matters

(3) Funeral and Burial expenses

(4) Witness fees

(5) Contracts related to the provision of "controlled acts" by persons "governed by a health profession Act", as those expressions are used in the *Regulated Health Professions Act*, S.0. 1991, c.18, as amended

(6) Veterinary Expenses

6. Utilities

7. Advertising services required by the City on or in but not limited to radio, television, newspaper and magazines

8. Bailiff or collection agencies

SCHEDULE "B"

PURCHASING METHODS

Procedure	Cost of Goods or Service
Approved Invoice or Petty Cash or Purchase Order (including Blanket Purchase Order) or Purchasing Card	$499 or less (Section 15)
Agreement, Purchase Order (including Blanket Purchase Order) or Purchasing Card or Request for Proposal or Request for Tender	$500 to 25,000 (Section 16)
Agreement, Request for Tender or Request for Proposal	$25,000 or more (Sections 17 and 18)

SCHEDULE "C"

	IRREGULARITY	RESPONSE
1	Late Bids.	Automatic rejection and not opened or read publicly.
2	Unsealed Envelopes.	Automatic rejection.
3	Insufficient Financial Security (No Bid Security or agreement to bond or insufficient Bid bond or agreement to bond).	Automatic rejection.
4	Bids completed and/or signed in erasable medium	Automatic rejection.
5	All required sections of Bid documents not completed.	Automatic rejection unless, in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate, the incomplete nature is trivial or insignificant.
6	Qualified Bids (Bids qualified or restricted by an attached statement).	Automatic rejection unless, in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate, the qualification or restriction is trivial or not significant.
7	Bids received on documents other than those provided or specified by the City.	Automatic rejection.
8	Bids Containing Minor Obvious Clerical Errors.	48 hours to correct and initial errors.
9	Failure to execute Agreement to Bond (Suretys Consent) or Bonding company corporate seal or signature missing from Agreement to Bond.	Automatic rejection.
10	Failure to execute Bid Bond by Bidder and Bonding Company.	Automatic rejection.
(a)	Corporate seal of the Bidder and Bonding Company, missing.	48 hours to correct.
11	Documents - Execution	
(a)	Corporate seal or signature missing; signatory's authority to bind the corporation or signature missing.	48 hours to rectify situation.
(b)	Corporate seal and signature missing; signatory's authority to bind the corporation and signature missing.	Automatic rejection.
12	Erasures, Overwriting or Strike-Outs which are not Initialed:	

	IRREGULARITY	RESPONSE
(a)	uninitialed changes to the Tender documents, other than unit prices, which are trivial or not significant;	48 hours to initial. The determination of what constitutes trivial or insignificant uninitialed changes shall be made in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate.
(b)	unit prices in the Schedule of Prices have been changed but not initialed and the Contract totals are consistent with the price as changed;	48 hours to initial change in unit price. The determination of what constitutes trivial or insignificant uninitialed changes shall be made in the consensual opinion of the Agent, General Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate.
(c)	unit prices in the Schedule of Prices which have been changed but not initialed and the Contract totals are inconsistent with the price as changed;	Automatic rejection.
13	Mathematical errors which are not consistent with unit prices.	48 hours to initial corrections as made by the Supplies and Services Division.
14	Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged.	Automatic rejection.
15	Any other irregularities.	The Agent, General Manager in charge of the Bid Solicitation and the Director of Legal Services, or designate, acting in consensus shall have authority to waive other irregularities or grant 48 hours to initial such other irregularities, which they jointly consider to be minor.