

CUPE Council Briefing Note

Woodstock Council: Item B-2 Engineering Department

December 14, 2017

Procurement is an important tool to make sure that goods and services are met for residents of a municipality. Procurement decisions are serious in a municipality given the amount of resources dedicated to the process and the array of potential consequences of poor decision making. Procurement of goods and services can become even more complicated when there is a shifting regulatory environment effecting it. This is the case regarding Item B-2, which will consider contracting out solid waste depot services.

Procurement Process

It is not clear that the city has followed a sufficient market sounding on Item B-2 given the recalled tender, which is now a contract recommendation before Council. Confounding this situation is a purchasing process which has not been transparent. Key concerns include:

- No costing on the public option;
- consultations with a sole vendor with no public process attached, and;
- no contract management or oversight plan accompanies this procurement.

Underscoring these concerns is the contradiction between the staff recommendation and municipal purchasing by-law. The city's By-law Article 3, Item 376.3.1 is unequivocal:

Tender purchases - goods/services - exceeding \$50,000: All purchases of goods and services exceeding \$50,000 will be made only after formal tenders have been called.

It remains unclear why a new tender was not released following the adjustment of the city's needs to a multi-day service at the Depot. The By-law is also clear that more than one response to a tender should be received by the city. This is reasonable guidance for Council as it is controls like these that help ensure accountability and transparency in public purchasing. The [Ontario Public Buyers Association Statement of Ethics for public purchasers](#) seems to address this matter clearly:

Fair and Impartial Award Recommendations for All Contracts and Tenders. This means that we do not extend preferential treatment to any vendor, including

local companies. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.

Council does not have all the information on this matter. There has been a procurement process with challenges. This process was further complicated with bias as only one business was consulted on this project and ended up being the successful proponent on what amounts to a sole sourced contract.

New Provincial Solid Waste Legislation

There is another important matter regarding this procurement – the implementation of the provincial Circular Economy Act.

This legislation will move from a 50/50 cost share on municipal recycling costs to full producer (or polluter) responsibility. The first materials to transition are paper, plastic, hazardous waste, tires, and electronics. This could involve a significant transition for municipalities depending on their operations. Overall municipalities pay out about \$130 million annually on recycling programs.¹ Solid waste collection and processing is a core service that requires public oversight and benefits from direct service provision.

The driver for municipalities to support this shift is the expectation that they stand to spend less on waste collection and processing of all materials covered under the blue box program. Producers could be responsible for virtually all aspects – including costs – of the waste they make. Other motivations are the cost savings and innovations that can be achieved through waste diversion. For example, while it is relatively cheap to bury garbage in landfill, there is a commodities market attached to the material that ends up in our household bins, which could open up revenue streams. There are additional advantages to municipalities as well; for example, the legacy costs associated with landfills are expensive and last throughout generations; waste diversion will lengthen the use of landfills and could lower costs.

Overall implementation of the new legislation is expected to roll out over the next 2-5 years. Currently, the major blue box consultation is ongoing and will be delivered on February 15, 2018. It will contain an amended plan on the future of the blue box plan. It is also expected that there is ongoing conversation taking place between government, producer associations, and municipalities as this process carries on.

There is also a danger in handing over core public services to private operators. This is especially true in the solid waste industry. Private solid waste and processing is less transparent and should not be trusted to deliver on improved diversion targets.

¹ AMO. *The Waste-Free Ontario Act: What it Means for Current and Future Waste Diversion Programs in Your Municipalities*, September 2017. <https://www.amo.on.ca/AMO-PDFs/Policy-Updates/2017/WasteFreeOntarioActWhatitMeans20170913Updated.aspx>.

Recently, the Columbia Institute wrote on the consequences of contracting out services:

[I]t's about the emerging trend of remunicipalization. Services that were once outsourced are finding their way back home. Most often, they are coming home because in-house services cost less. The bottom-line premise of cost savings through outsourcing is not proving to be as advertised. Other reasons for insourcing include better quality control, flexibility, efficiency in operations, problems with contractors, increased staff capacity, better staff morale, and better support for vulnerable citizens. When services are brought back in house, local governments re-establish community control of public service delivery.²

This decision is too risky. Council should send staff back to review the public option more comprehensively as the private sector will not be able to effectively deliver on this service. Awarding a contract on Item B-2 would also lock in the City to a 5-year deal in the same time frame that the solid waste industry will go through dramatic changes.

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² Reynolds, Royer and Beresford. *Back In House Why Local Governments Are Bringing Services Home*. Columbia Institute; 2016. http://www.civicgovernance.ca/wordpress/wp-content/uploads/2016/06/Columbia_Back_in_House_May_16_2016_English_web.pdf.