

MANAGEMENT REPORT

Date: May 20, 2025
To: Finance and Labour Relations Sub-Committee
From: Karmen Krueger, CPA, CA, Director of Corporate Services
Report Number: FIN25-014
Attachments: None

Title: Deposits for Land Leases and the Procurement Process

Objective: To provide information and clarification to members of Sub-committee and Council regarding the use of deposits in the procurement process.

Background: At the April 14, 2025, Regular Council meeting, Council adopted the following resolution:

THAT staff be directed to investigate and prepare a report on the ability to require a deposit from proponents of land leases.

This report is intended to clarify current practices and when and how deposits are utilized for the various types of procurement methods.

Analysis: Staff recently issued a Request for Expressions of Interest (RFEOI) to determine whether there was any interest in leasing farmlands the City owns but is not intending immediate use of near the Stratford Airport.

A Request for Expression of Interest (RFEOI) is appropriate in specific scenarios where preliminary information is needed before proceeding with further procurement actions. These are preliminary, non-binding statements of interest and are meant to be an exploratory step, followed with a more detailed open tender or proposal once the specifics of the direction are better defined.

In many cases, RFEOI is followed by a formal tendering process or RFP to obtain detailed bids or proposals from qualified suppliers. In this case, the agreement to lease the land is very straightforward, so staff used the information obtained from the RFEOI to seek Council approval to proceed with entering into an agreement with the highest valued expression of interest. This is effectively sole-sourcing and is appropriate when there are not likely to be any additional bidders based on new information issued by the City.

The City's procurement policy is currently being revamped to include some of this information to help guide staff, Council and potential partners with the City as to the appropriate tools for procurement.

Use of Deposits:

Deposits are usually intended to secure a transaction, demonstrating a serious intent and commitment from the buyer or lessee.

Because Expressions of Interest as well as Requests for Proposals (RFPs) are preliminary and are non-binding, requiring a deposit within this tool would be inconsistent with the intent of the type of procurement. It could discourage potential buyers or lessees, potentially hindering the process of finding suitable parties.

In the context of land leases, if the City were seeking a bid deposit, such would be more appropriate at the point of a formal lease agreement, not during the initial Expression of Interest phase. Instead of requiring a deposit, the City could have considered other methods for gauging interest, such as a pre-application process or a non-binding survey, and then used that to create a more binding proposal document. However, as noted, given the number of EOI responses and the simplicity of the agreement proceeding with the next more formalized procurement where a bid deposit may have been considered, it was determined not applicable.

The City does obtain deposits for other types of procurement:

During the Bidding Process: Deposits, also known as tender deposits, may be required by bidders to demonstrate their seriousness and good faith in submitting a bid. These deposits are refunded to unsuccessful bidders. Municipalities would most often use them for bids submitted for large or complex projects, as reviewing the tenders submitted for those projects is also more complex.

When Security for Contract Performance is needed: Deposits act as a form of security, ensuring that the buyer/purchaser is serious about fulfilling their obligations under the contract. If the buyer breaches the contract, the deposit is forfeited to the seller/vendor. This type of deposit is much more common and again is usually reserved for the more complex or unique projects, whereas if the City were forced to seek alternatives mid-project, there would be some funds available to complete the project, or at the very least ensure that no incremental costs were incurred to complete the project.

The staff recommendation is to maintain the status quo for when deposits are required, however if Council wished to direct staff to amend the purchasing policy to require a deposit regardless of the nature of the procurement type, this can be inserted into the upcoming revision to the procurement policy, with the caveat that in some cases, this will result in a smaller number of partners submitting proposals.

Financial impact to current year operating budget:

There are no financial implications as this report is for information.

Legal considerations:

None, as this report is for information purposes.

Alignment with Strategic Priorities:

Not applicable: This report does not align with one of the Strategic Priorities as it is provided for information.

Alignment with One Planet Principles:

Not applicable: This report does not align with One Planet Principles as it is for information.

Staff Recommendation: THAT the report titled, "Deposits for Land Leases and the Procurement Process" (FIN25-014), be received for information;

AND THAT Council direct staff regarding changes, if any, to be included in the procurement policy and process.

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