



Date: November 19, 2024
To: Council
cc: Adam Clarkson
From: Kim Ramsay
Re: Standing Offer - Heating Fuel Contract

Process Error, Contract Award

East Hants entered into a heating fuel contract which was formed based on the provincial Fuel Standing Offer (provincial contract ID CW87473) back in November 2022. The estimated value of the contract over five years is \$1,000,000. The specifics of the Municipal Procurement Policy with respect to standing offers required that Council approval be sought for the contract prior to entering into the contract - this approval was not sought.

The way the Procurement Policy is written, Staff may leverage Standing Offers when they are less than the High Value Threshold, but when the value will exceed the High Value Threshold, such purchases are considered an Alternative Procurement (ALTP) and subject to the conditions of that part of the Policy. The only ALTP circumstance applicable (“Prior open competitive processes (by the Municipality or other organizations in the public sector) have clearly pointed to one or a few suppliers and the CAO is confident that the issuance of an Open Competition would return similar results”) triggered the section of the Policy requiring Council approval.

Recommendation:

Move that Council ratify entry into a contract with Irving Oil, based on the Province of Nova Scotia Standing Offer CW87473, for fuel delivery services.

Background:

Appendix A, ALTP Justifications, reads:

“When the Procurement Value exceeds the High Value Threshold and the thresholds of CFTA as they impact Municipal entities, the risk of an ALTP with respect to the Trade Agreements must be assessed and approval to use the following Alternative Procurement Practices must be obtained from Council. Such Alternative Procurement Practices may not be used when they create significant risk of conflict with trade agreement obligations”

It should be noted that the spirit of the Procurement Policy was fully met and there is no Trade Agreement risk.

- The Municipality of East Hants was listed as a participant in the procurement documents which went to market. This is one of the requirements for Standing Offers to be trade agreement compliant;
- Staff fully assessed the needs of the various departments and were able to demonstrate a probable savings over the term of the contract. Senior management were satisfied there was value for the taxpayer; and

- The analysis done at the time estimated saving of \$22,000-23,000 per year, without having the Sportsplex under East Hants' control.
- When considering moving the Sportsplex to this contract back in April 2024, the analysis determined that heating fuel represented a **huge** potential for savings per litre versus the price being paid to Ultramar.
- The province completed a fair, open, and transparent procurement competition which resulted in a clear winner (Irving).

Staff have suggested that the Procurement Policy should be updated to recognize, in circumstances where we are an active participant in the procurement process from the beginning, that such procurements should be considered equivalent to the Municipality having completed the process themselves. Such processes would then be compliant with the Procurement Policy and would not be considered an ALTP. This will be brought forward to Council in the New Year, along with the ramifications of changes to the Public Procurement Act.

Staff have reviewed the spend on the contract. Two years in, spend is at approximately \$348,940. The contract was estimated at about \$200,000 per year, or \$1,000,000 for the Term if all extensions were implemented by the province. The difference is likely a result of the closure of the Aquatic Centre which reduced demand. Transitioning the Sportsplex will increase the overall spend under this contract.

As the contract covers heating fuel, propane, and diesel fuel (for generators and equipment), the savings from this Standing Offer impact all departments.

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