


TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jerry Blackwood, Acting Chief Administrative Officer

DATE: March 30, 2020

SUBJECT: New Procurement Policy and Disposal of Surplus Assets Policy

ORIGIN

The requirement to fully comply with the Canada Free Trade Agreement (CFTA) and the Comprehensive Economic Trade Agreement (CETA), address improvements introduced by Council and HRM departments since February 2017 and to introduce Social Value considerations to reflect the desires of Council.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter

- 35(2)(d)(i)** The Chief Administrative Officer may subject to policies adopted by the Council, make or authorize expenditures, and enter into contracts on behalf of the Municipality, for anything required for the Municipality where the amount of the expenditure is budgeted or within the amount determined by the Council by policy, and may delegate this authority to employees of the Municipality,
- 35(2)(d)(ii)** The Chief Administrative Officer may subject to policies adopted by the Council, sell personal property belonging to the Municipality that, in the opinion of the Chief Administrative Officer, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed by, the Municipality, and may delegate this authority to employees of the Municipality,
- 79A(1)** Subject to subsections (2) to (4), the Municipality may ... spend money for municipal purposes ...

Public Procurement Act

- 12(1)(a)** A public sector entity shall publicly tender for all goods, services, construction and facilities in accordance with the applicable regional, national or international trade agreements by public advertisement on the procurement web portal;
- 12(1)(m)** A public sector entity shall adopt or adapt its procurement policies to be consistent with the requirements of this Act.

- 12(3)** When evaluating a bid, the public sector entity shall obtain best value and is not limited solely to purchase price and life-cycle cost considerations, but may also consider environmental and social factors, delivery, servicing and capacity of the bidder to meet criteria as stated in the bid received.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Repeal Administrative Order #2016-005-ADM – the Procurement Policy;
2. Adopt Administrative Order 2020-004-ADM as set out in Attachment 1 to establish a new Procurement Policy for the Municipality; and
3. Adopt Administrative Order 2020-003-ADM – as set out in Attachment 2 to establish a new Surplus Assets Policy for the Municipality.

BACKGROUND

- Administrative Order # 2016-005-ADM was approved by Halifax Regional Council on February 7, 2017, to reflect the requirements of the Nova Scotia Public Procurement Act.
- Administrative Order # 2016-005-ADM was amended by Regional Council on July 4, 2017 to authorize the CAO to approve all awards for contracts related to Roads, Streets, Sidewalks and AT corridors.
- The Canada Free Trade Agreement (CFTA) came into effect on July 1, 2017. The CFTA is an agreement between the federal, provincial and territorial governments that seeks to eliminate trade barriers to the free movement of persons, goods, services and investments within Canada, and includes procurement obligations for public sector entities including municipalities.
- The Canada-EU Comprehensive Economic and Trade Agreement (CETA) came into effect on September 21, 2017. Its main element is the significant reduction of tariffs on Canadian exports to the EU and access to Canadian markets for EU members and includes procurement obligations for public sector entities including municipalities.
- The Atlantic Premiers agreed in principal to a Memorandum of Agreement which sets out procurement obligations for the Public Sector in Atlantic Canada on January 13, 2020.
- On December 12, 2017 Regional Council requested a staff report and recommendations with respect to developing a Social policy lens through which to assess future initiatives. Staff have since developed a Social Policy which is pending Council approval.
- Halifax Regional Council approved Administrative Order 2020-002-GOV. Social Policy Administrative Order on May 12, 2020.

DISCUSSION

The current Procurement Administrative Order is consistent with the requirements of the Nova Scotia Public Procurement Act and many Procurement best practices but relies heavily on processes and does not contain terminology that reflects the Canada-EU Comprehensive Economic Canada Free Trade Agreement enacted since its adoption. Revisions are required to the Procurement Administrative Order to recognize HRM's requirements under these trade agreements, allow for more adaptive process, and reflect Council priorities and policies adopted since the Administrative Order was approved.

To enact a proposed policy using the Municipality's current Policy standards, the current Administrative Order must be repealed and replaced.

The major change to the policy is a change in focus from process to compliance requirements and authority

levels. Staff have adopted an approach similar to more recent Policies of Council and other public agencies including the Province of Nova Scotia, the Government of Canada and many Municipal jurisdictions. Under this common approach, the Policy contains the fundamental commitments and authorities, including the introduction of options for Social Procurement. An operational document (the Procurement Manual) describes processes, constraints and options forms a subordinate document. In doing so, the Administrative Order provides that under the rules of the Policy, staff will follow the processes described in the Manual. Maintaining and updating the manual is the responsibility of Procurement. This will allow the Procurement department to add clarity and provide guidance to Municipal Departments, more effectively manage processes and to efficiently act on the direction of Council and Executive Management and the ongoing evolution of global and national Social Procurement practices without the need for Policy amendments.

Summary of key improvements to the existing Procurement Policy:

Interpretation: Definitions have been amended to more closely match the terminology used in CETA and CFTA. Halifax Public Libraries have been removed in consideration that they are a separate public sector entity, empowered to adopt their own policies and procedures. Legal Services is currently preparing a service agreement between the Municipality and the Library Board which will include shared services provided by FAM&ICT, CCS, TPW and Legal Services. New definitions of “Best Value” and “Social Value” have been added to reflect Council’s desire to apply a social lens to appropriate Procurements. Because specific Procurement Processes are no longer in the Policy, a Procurement Manual is described in the Interpretation Section.

Responsibilities: Minor changes have been made to clarify Departmental and Procurement responsibilities including the requirement for Departments to take full responsibility for soliciting low value purchases (under \$10,000).

Initiating Procurement: This section now clearly describes the Trade Agreement requirements for the information that must be included in a Notice of Intended Procurement and when such notice is mandated. As a matter of practice, the Municipality currently exceeds the minimum requirements of applicable trade agreements and publicly posts notices for all procurement opportunities with an estimated value of \$25,000 or more.

Procurement Method: This section replaces “Purchasing Processes” in the current Policy which describes each of the Municipality’s standard Procurement processes. The processes section has been removed in its entirety. All standard Procurement processes will be described fully in the Procurement Manual. The Procurement Methods Section aligns strictly with the language used in the Trade Agreements and standard language used within Nova Scotia government. Section 16, Alternative Procurement incorporates the types of Procurement that the current Policy considers as Sole Source, Exceptional Circumstances and Emergency Purchases, adopting the standard Province of Nova Scotia, CFTA and CETA language. The change of description and context does not affect the authority levels required to make this type of purchase except for in cases of urgency (currently defined as “Emergency Circumstances”). The current Policy gives staff unlimited authority to make emergency purchases under a set of reporting rules. Resulting from consultation with EMS Senior Management, the proposed Policy sets a value limit on that authority, after which CAO approval is required.

Supplier Prequalification and Rosters: The current Policy was written in the compliance with the former Agreement on Internal Trade (AIT), which has been replaced by the CFTA. The AIT limited rostering to include only Engineers, Architects and Land Surveyors. CFTA and CETA do not contain such limits and therefore allow rosters (or “bidders lists”) to be used more comprehensively. This will allow staff to streamline procurement activity for several other services which are suitable for pre-qualification. This could include services such as Financial, Planning and IT consulting services, as well as some physical services like Construction Trades and Landscaping and other markets where it is seen as appropriate. The prequalification and rostering rules adopted from CFTA and CETA are included in the Policy and the appropriate use and processes will be detailed in the Procurement Manual.

Buying Groups: In the current Procurement Policy the Municipality is limited to using buying groups formed by another level of Government or public entity. Over the past several years, some privately run Public Sector buying groups such as Kinetic GP and Sourcewell, who collect and combine requirements from multiple Public Sector agencies to achieve volume-based efficiencies and savings, have emerged and have proven in other jurisdictions to provide value to their procurement activity. The new section will allow the Municipality to take advantage of the efficiencies of a Buying Group and the purchasing power of all the participants managed under both Public Sector and Private Sector operated Buying Groups.

Fairness Monitors: The use of external Fairness Monitors has become popular with Public Sector entities for complex, high value and high public impact Procurement activity over the past few years, to provide a higher level of transparency. While the Municipality has used Fairness Monitors for complex procurement activity in the past, there has been no clear enabling provision to do so, with past policies placing the role of Fairness Monitor on Procurement staff. While the Procurement Section and Municipal Departments remain responsible for ensuring our procurement processes are consistently open, fair and transparent, the addition to this consideration expressly allows the Municipality to designate an external Fairness Monitor in cases where it is appropriate and aligns HRM's Procurement Policy with the policies of other Canadian jurisdictions.

Determination of Best Value: In concert with the definitions of Best Value and Social Value included in the Interpretation Section of the proposed Policy, the Municipality can include within its solicitations a variety of published evaluation considerations including, but not limited to, Social Value. When determining Best Value, the considerations included must be declared as criteria within the Notice of Intended Procurement and cannot be "added" after bids are received.

Social Procurement: In support of the values within the Social Policy recently adopted by Council, the proposed changes to the Procurement Policy include the addition of specific provisions related to Social Procurement. The goals of Social Procurement are to enhance community health and well-being by advancing reconciliation, inclusion, equity and diversity; increase economic opportunities by expanding participation of diverse and social value businesses in the Municipality's supply chain; improve economic independence and capacity by increasing employment and training opportunities for underemployed, unemployed, under-represented equity seeking populations; support community considerations in the supply chain and encourage environmental sustainability. To reflect these goals, new direction in relation to social value procurement has been added to the Policy. For purchases under \$10,000 and for all invitational solicitations staff will endeavor to invite at least one diverse or social enterprise supplier to competitively bid. Procurement and applicable Departments will also work together to include, where appropriate, social considerations in the evaluation criteria and/or contract requirements such as fair wages, diversity of ownership, workforce and values, workforce development and training, social enterprise, community development and environmental responsibility.

Determination of Best Value: In concert with the definition of Best Value included in the Interpretation Section of the proposed Policy, and the direction related to social procurement, the Municipality is not obligated to award contracts based on price alone but can include within its solicitations a variety of published evaluation considerations such as social value, quality and cost. When determining Best Value, the considerations included must be declared as criteria within the Notice of Intended Procurement and cannot be "added" after bids are received.

Authority Levels: There are few proposed changes to the authorities in the current Policy. The Council amendment of July 4, 2017 related to Street, Sidewalk and Road construction has been incorporated in the Award Authority table in Section 27(1). New descriptions for Award Authority reflect the Alternative Procurement section and, as previously discussed, place limits on sub-CAO Urgent Circumstance purchasing, aligning them with the other authorities in the Policy. The proposed award authority levels are:

Method	Manager	Director	CAO	Council
Low Value Purchase	\$10,000	\$10,000	\$10,000	\$10,000
Competitive Procurement	Per delegation of authority from Director [not to exceed \$100,000]	\$100,000	\$1,250,000	Any amount
Competitive Procurement – Street, sidewalk, & active transportation Construction projects	Per delegation of authority from Director	\$100,000	Any amount	Any amount
Competitive Procurement – Establishment of Standing Offer	\$5,000,000 (Manager of Procurement only)	\$5,000,000 (Director of Finance only)	\$5,000,000	Any Amount
Alternative Procurement	Per delegation of authority from Director	\$100,000	\$1,250,000	Any amount
Alternative Procurement – Urgent Circumstances per 16(1)(d)	Per delegation of authority from Director	\$100,000	Any amount	Any amount

Publishing of Bid Results: This section of the proposed Policy states the minimum requirements for posting bid results under the CFTA and CETA and is consistent with the Public Procurement Act. The requirements include a description of the Goods, Services or Construction procured; the name and address of the Municipality; the name and address (City and Country) of the successful supplier; and the value of the successful bid; and the date of award for Competitive Procurement and also require the posting of the circumstances and the applicable CFTA or CETA provision for Alternative Procurement.

Reporting of Awards: There is no change to the information that will be provided to Council related to the Reporting of Awards. Council members will continue to receive a regular email reporting awards made since the previous report.

Disqualification and Suspension (Bid Barring): This section is rewritten to provide clarity on the provisions and authorities for Disqualification and Suspension. The Procurement Manual will explain the constraints and describe the responsibilities of Procurement, Legal Services and other Municipal Departments in the Disqualification and Suspension process.

Bid Challenges and Dispute Resolution: The current Policy does not strictly reflect the requirements of the Nova Scotia Public Procurement Act. The language in the proposed Policy directs dissatisfied bidders in relation to the Act.

Appendix A – Exemptions: This appendix has been rewritten to fully comply with CFTA and CETA.

Disposal of Surplus Assets: Considerations for the disposal of surplus assets has been removed entirely from the proposed Procurement Policy and, subject to Council’s approval, will be replaced with a new Administrative Order. The sale of assets is not a trade activity and is not constrained by Trade Agreements or the Public Procurement Act. The proposed Disposal of Surplus Assets Policy substantially reflects the requirements of the current Procurement Policy but will stand alone. This will allow Council to direct further

refinement and amendment to the Disposal Policy over time without a further amendment of the Procurement Policy.

Consistency with Administrative Order 2016-005-ADM: The proposed Policy provides clarity to the existing responsibilities of staff, the CAO and Regional Council and does not result in any change to the authority levels of staff, the CAO or Regional Council to award, execute or amend contracts, except in the case of emergencies which will now have a tiered approval process similar to other Procurement. Although there are changes in terminology to reflect CETA and CFTA, it maintains those items currently referred to as Sole Source, Exceptional Circumstances and Emergency Circumstances under the term “Alternative Procurement”. Processes are not included in the policy, but the standard methods of public procurement listed in the current Policy will not change as a result of the proposed Policy.

THE DISPOSAL OF SURPLUS ASSETS ADMINISTRATIVE ORDER

The current Procurement Administrative Order contains protocols for the Disposal of Surplus Assets. Since the sale or donation of surplus is not by definition a Procurement activity, we have removed the entire section.

Considerations for the disposal of surplus assets has been removed entirely from the proposed Procurement Policy and, subject to Council’s approval, will be replaced with a new Administrative Order. The sale of assets is not a trade activity and is not constrained by Trade Agreements or the Public Procurement Act. The proposed Disposal of Surplus Assets Policy substantially reflects the requirements of the current Procurement Policy but will stand alone. This will allow Council to direct further refinement and amendment to the Disposal Policy over time without a further amendment of the Procurement Policy.

FINANCIAL IMPLICATIONS

The Procurement Policy provides:

1. Direction for the expenditure of funds to complete the programs approved by Halifax Regional Council in the operating and capital budget, and planning processes
2. A fair, open, consistent and transparent process for the procurement of goods, services and construction in an attempt to achieve best value for the Municipality
3. Consideration of the total cost of purchasing goods, services, and construction rather than limiting considerations to lowest invoiced price.
4. Use of procurement methods that are consistent with the Nova Scotia Public Procurement Act and encourage competitive bidding, and a strategic and sustainable approach to public sector procurement.

All of these objectives (outcomes) ensure HRM is receiving best value for taxpayers.

RISK CONSIDERATION

There are no identified risks

COMMUNITY ENGAGEMENT

The Procurement department has consulted with key internal stakeholders as well as market representatives prior to presenting this recommendation.

ENVIRONMENTAL IMPLICATIONS

By considering best value, the Municipality can support sustainable and environmentally responsible procurement in variety of areas. Achieving or supporting the Municipality’s environmental goals is

sometimes a mandatory requirement in solicitations but can also be included in the evaluation of Best Value/Social Value.

ALTERNATIVES

1. Council could adopt the policy with amendments, including approval limits different than those proposed.
2. Council could reject the adoption of the new Procurement Policy and the new Disposal of Surplus Assets Policy.

ATTACHMENTS

1. Proposed Administrative Order 2020-004-ADM - Procurement Policy
2. Proposed Administrative Order 2020-003-ADM – Disposal of Surplus Assets Policy

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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ADMINISTRATIVE ORDER 2020-004-ADM

PROCUREMENT ADMINISTRATIVE ORDER

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**ADMINISTRATIVE ORDER NUMBER 2020-004-ADM
PROCUREMENT ADMINISTRATIVE ORDER**

BE IT RESOLVED, as an Administrative Order of the Council of the Halifax Regional Municipality, as follows:

Short Title

1. This Administrative Order may be cited as Administrative Order Number 2020-004-ADM, the *Procurement Policy*.

Purposes

2. The purposes of this Administrative Order are to:

(a) provide for the procurement of Goods, Services and Construction by the Municipality in a fair, open, consistent and transparent manner resulting in Best Value;

(b) promote procurement processes and decisions that are consistent with the strategic goals and objectives of the Municipality;

(c) provide for sustainable procurement by integrating environmental, economic and social considerations in the procurement process;

(d) maintain ethical business practices;

(e) respect regional, national and international trade agreement obligations and other applicable legislation; and

(f) encourage competitive bidding for the supply of Goods, Services and Construction.

Interpretation

3. In this Administrative Order,

(a) “Agent” means a person or entity expressly appointed through a written contract with the Municipality to purchase Goods, Services or Construction on behalf of the Municipality;

(b) “Alternative Procurement” means a procurement method whereby the Municipality contacts a supplier or suppliers of its choice;

(c) “Award” means the decision of the Municipality to enter into a contract for Goods, Services or Construction with a particular supplier;

(d) “Best Value” means the bid that is determined by the Municipality to be in the Municipality’s best interests, taking into account not only purchase price and life cycle cost considerations, but also taking into account items such as environmental and social

considerations, delivery, servicing, past experience, past performance, and any other criteria or factors stated in the call for bids;

(e) “Buying Group” means a group of two or more members that combines the purchasing requirements and activities of the members of the group into one joint procurement process. Buying groups include cooperative arrangements in which individual members administer the procurement function for specific contracts for the group, and more formal corporate arrangements in which the Buying Group administers procurement for group members. Buying Groups may consist of a variety of entities, including any combination of procuring entities, private sector entities, or not-for-profit organizations;

(f) “CAO” means the Chief Administrative Officer of the Municipality;

(g) “Competitive Procurement” means a procurement method whereby all interested suppliers may submit a bid;

(h) “Construction” means the construction, reconstruction, demolition, repair or renovation of a building, structure, road or other engineering or architectural work, excluding professional consulting services related to the construction contract unless they are included in the procurement;

(i) “Council” means the Council of the Municipality;

(j) “Department” means a department of the Municipality’s administration designated as such by the CAO, and for greater certainty includes Halifax Regional Police and Halifax Regional Fire & Emergency;

(k) “Director” means the Director of a Department, and for greater certainty includes the Chief of Police, and the Chief of Fire;

(l) “Goods” means materials, furniture, merchandise, equipment, stationery and other supplies required by the Municipality for the transaction of its business and affairs, including services that are incidental to the provision of such supplies;

(m) “Low Value Purchase” means the procurement of Goods, Services or Construction valued at less than \$10,000;

(n) “Manager” means a person other than a Director who has a managerial role within a Department and a direct reporting relationship to the Director of that Department or to the CAO;

(o) “Municipality” means the Halifax Regional Municipality;

(p) “Notice of Intended Procurement” means a notice published by the Municipality inviting interested suppliers to submit a bid, a response to a request for supplier prequalification, or both;

(q) “Personal Services Contract” means an agreement, whether or not in writing, establishing an employment relationship between an individual and the Municipality and includes an amendment or extension of such agreement;

(r) “Procurement Manual” means the processes, protocols, and best practices document maintained by the Procurement Section;

(s) “Procurement Section” means the organizational unit within the Municipality responsible for managing the procurement of Goods, Services and Construction for the Municipality;

(t) “Procurement Web Portal” means the public procurement website maintained and operated by the Government of the Province of Nova Scotia;

(u) “Requisition” means a request made to the Procurement Section:

(i) to purchase Goods, Services or Construction;

(ii) to create a Standing Offer for future purchases;

(iii) to make a draw from a Standing Offer; or

(iv) to obtain Goods from inventory that have already been purchased by the Municipality.

(v) “Roster” means a list of suppliers that the Municipality has determined satisfy the conditions for participation in that list, and that the Municipality intends to use more than once;

(w) “Services” means services required by the Municipality for the transaction of its business and affairs, excluding services provided by an employee of the Municipality through a Personal Services Contract;

(x) “Standing Offer” means a continuous offer from a pre-approved supplier to supply Goods, Services or Construction to the Municipality at specific prices for a specific period of time, when and if required by the Municipality;

(y) “Urgent Circumstance” means an unforeseeable situation of urgency.

GENERAL

Application

4. Subject to section 5, this Administrative Order shall apply to the procurement of Goods, Services and Construction by the Municipality.

Exemptions

5. The expenditures listed in Appendix A are exempt from sections 12 through 39 of this Administrative Order.

Purchases by Agents

6. (1) Agents are exempt from the application of this Administrative Order but are required to comply with the *Public Procurement Act* and the terms and conditions of the Agent's written contract with the Municipality when making purchases on behalf of the Municipality.

(2) No person or entity shall purchase Goods, Services or Construction on behalf of the Municipality unless expressly appointed as Agent in a written contract with the Municipality.

Calculation of Contract Amounts

7. Contract amounts referenced in this Administrative Order shall be construed to be the sum of all costs for the duration of the contract plus all applicable net taxes, less all rebates.

Conflict

8. Where there is a conflict with the application of this Administrative Order and the *Public Procurement Act* and the regulations thereunder, the Act and its regulations shall prevail.

RESPONSIBILITIES

Chief Administrative Officer

9. The CAO may authorize additional procedures and protocols not inconsistent with this Administrative Order and may delegate his or her authority under this Administrative Order to employees.

Departments

10. Each Department shall be responsible for:

- (a) identifying and initiating procurement activities within their Department;
- (b) complying with this Administrative Order, the Procurement Manual and other procurement procedures established by the Procurement Section;
- (c) procurement of Low Value Purchases;
- (d) monitoring, managing and enforcing contracts requisitioned by their Department; and
- (e) ensuring the specific objectives of contracts requisitioned by their Department are achieved.

Procurement Section

11. The Procurement Section shall be responsible for:

(a) facilitating the procurement of Goods, Services and Construction according to this Administrative Order;

(b) establishing and maintaining the Procurement Manual and other appropriate procurement procedures consistent with this *Administrative Order*, the *Public Procurement Act*, applicable trade agreements, and the Province of Nova Scotia's *Construction Contract Guidelines*;

(c) providing advice to the Municipality regarding appropriate procurement strategies;

(d) approving and maintaining the Municipality's standard terms for contracts for Goods, Services and Construction, in consultation with Legal Services;

(e) collaborating with Departments to consider contract and risk management practices in the procurement cycle, and to combine requirements where possible to achieve efficiencies and reduce costs to the Municipality;

(f) administering each call for bids and ensuring the fair evaluation of bids;

(g) facilitating the negotiation, if required, of terms and conditions of contracts for Goods, Services and Construction;

(h) administering contracts for Goods, Services and Construction; and

(i) monitoring compliance with this Administrative Order and notifying Directors of non-compliance with it.

INITIATING PROCUREMENT

Requisitions

12. (1) Subject to subsections (2) and (3), when a Department requires Goods, Service or Construction it shall submit a Requisition to the Procurement Section.

(2) A Requisition is not required for Low Value Purchases.

(3) A Department shall not submit a Requisition unless the funds for the estimated purchase amount are clearly identified in a Council approved budget.

Authority to Make a Requisition

13. (1) The authority to make a Requisition is as follows:

CAO	Director	Manager	Employee
Any amount	Any amount within the Director’s approved budget	Per delegation of authority from Director	Per sub-delegation of authority from Manager

(2) The Procurement Section shall maintain a list of all delegations and sub-delegations of Requisition authority submitted by a Director or Manager pursuant to subsection (1).

Notice of Intended Procurement

14. (1) Subject to subsection (2), the Procurement Section shall publish a Notice of Intended Procurement for each procurement opportunity, including requests for supplier prequalification, on the Procurement Web Portal.

(2) The Procurement Section is not required to publish a Notice of Intended Procurement for:

(a) Procurement opportunities valued at less than the thresholds set out in applicable trade agreements (unless the Procurement Manual includes any more stringent thresholds or requirements);

(b) Procurement opportunities offered to prequalified suppliers on a Roster; and

(c) Procurement opportunities where the procurement will be conducted using Alternative Procurement.

PROCUREMENT METHODS

Competitive Procurement

15. Subject to sections 16 to 20, Competitive Procurement shall be used for procurement of all Goods, Services and Construction.

Alternative Procurement

16. (1) For procurement opportunities that do not exceed thresholds set out in applicable trade agreements, Alternative Procurement may be used, subject to any restrictions or requirements set out in the Procurement Manual.

(2) For procurement opportunities that exceed thresholds set out in applicable trade agreements, Alternative Procurement may be used, provided that it is not done for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of any jurisdiction covered by an applicable trade agreement, in the following circumstances:

- (a) if:
- (i) no bids were submitted or no suppliers requested participation;
 - (ii) no bids that conform to the essential requirements of the call for bids were submitted;
 - (iii) no suppliers satisfied the conditions for participation; or
 - (iv) the submitted bids were collusive,

provided that the requirements of the call for bids are not substantially modified;

(b) if the Goods, Services or Construction can be supplied only by a particular supplier and no reasonable alternative or substitute Goods, Services or Construction exist for any of the following reasons:

- (i) the requirement is for a work of art;
- (ii) the protection of patents, copyrights, or other exclusive rights;
- (iii) due to an absence of competition for technical reasons;
- (iv) the supply of Goods, Services or Construction is controlled by a supplier that is a statutory monopoly;
- (v) to ensure compatibility with existing Goods, or to maintain specialized Goods that must be maintained by the manufacturer of those Goods or its representative;
- (vi) work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
- (vii) work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or
- (viii) the procurement is for subscriptions to newspapers, magazines, or other periodicals;

(c) for additional deliveries by the original supplier of Goods, Services or Construction that were not included in the initial procurement, if a change of supplier for such additional Goods, Services or Construction:

- (i) cannot be made for economic or technical reasons such as

requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and

(ii) would cause significant inconvenience or substantial duplication of costs for the Municipality;

(d) if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the Municipality, the Goods, Services or Construction could not be obtained in time using Competitive Procurement;

(e) for Goods purchased on a commodity market;

(f) if the Municipality procures a prototype or a first Good or Service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first Good or Service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the Good or Service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers;

(h) if a contract is awarded to a winner of a design contest provided that:

(i) the contest has been organized in a manner that is consistent with the principles of applicable trade agreements, in particular relating to the publication of a Notice of Intended Procurement; and

(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner; or

(i) if Goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through Competitive Procurement could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

Supplier Prequalification & Rosters

17. (1) The Procurement Section may limit bids to prequalified suppliers, either through the use of Rosters or through multi-stage procurement opportunities.

(2) The Procurement Section shall allow all prequalified suppliers to participate in a particular procurement, unless the Procurement Section states in the request for supplier prequalification any limitation on the number of suppliers that will be permitted to

submit bids and the criteria for selecting the limited number of suppliers.

(3) A request for supplier prequalification inviting interested suppliers to apply for inclusion on a Roster shall be published in a Notice of Intended Procurement at least every 3 years on the Procurement Web Portal and shall include:

- (a) the criteria that will be used to prequalify suppliers, unless those requirements are included in the qualification documentation;
- (b) a statement that only the suppliers on the Roster will receive further notices of procurement opportunities covered by the Roster; and
- (c) the period of validity of the Roster.

Buying Groups

18. (1) Subject to subsections (2) and (3), the Procurement Section may establish or take part in Buying Groups, including those formed by the Province of Nova Scotia, the Government of Canada or any other public sector entity or private sector entity.

(2) The Procurement Section shall publish a notice of the Municipality's participation in a Buying Group at least annually on the Procurement Web Portal. Such notice shall direct potential suppliers to the Buying Group tender notices website if it is different from the Procurement Web Portal.

(3) Any agreements required to formalize the Municipality's participation in a Buying Group shall be approved and signed by the Manager of Procurement.

Standing Offers

19. (1) The Procurement Section may establish Standing Offers using Competitive Procurement, Alternative Procurement or through participation in a Buying Group.

(2) In issuing a call for a Standing Offer, the Procurement Section shall indicate how subsequent purchases will be made from a supplier under a Standing Offer.

(3) The Manager of Procurement may negotiate and make modifications to a Standing Offer that they determine to be in the best interests of the Municipality, such as adding or deleting items or extending the duration of a Standing Offer.

(4) For the purposes of contract award, the total estimated value of the Standing Offer shall be used to determine the appropriate approval authority.

(5) Individual draws from a Standing Offer shall be approved by a Director.

(6) A Director may delegate their authority under subsection (5), and a list of such delegations shall be provided to and maintained by the Procurement Section.

(7) Where the Procurement Section has established a Standing Offer for Goods, Services or Construction, it shall be mandatory to use the Standing Offer for the purchase of such Goods, Services or Construction.

Low Value Purchases

20. If a Standing Offer is not applicable, Departments may make Low Value Purchases of Goods, Services and Construction by employing one of the acceptable procurement methods set out in the following table:

Amount	Acceptable Procurement Methods
< \$1,000	<ul style="list-style-type: none">• Petty cash or Corporate Purchasing Card
\$1,000 to \$10,000	<ul style="list-style-type: none">• Request two or more quotes• Competitive Procurement• Alternative Procurement

SOCIAL PROCUREMENT

Social Procurement

21. (1) When making Low Value Purchases or when conducting invitational calls for bids, staff will, where feasible, invite at least one diverse or social enterprise supplier to submit a bid.

(2) In each call for bids the Procurement Section and the Department responsible for the purchase shall consider including evaluation criteria and/or contract requirements that aim to achieve social value or social impacts such as:

(a) supplier diversity (i.e. opportunities for diverse suppliers including suppliers owned, operated by, or employing African Nova Scotians, Indigenous peoples, people with disabilities and/or other traditionally underrepresented groups);

(b) workforce development (i.e. offering apprenticeships, skills training and/or other developmental support to employees, subcontractors and/or volunteers);

(c) fair wage/living wage;

(d) community benefits;

(e) environmental benefits;

(f) socially responsible production; and

(g) advanced health and safety practices.

EVALUATING BIDS AND AWARDING CONTRACTS

Openings

22. (1) Bids will be accepted in accordance with the closing time and date stipulated in the call for bids.

(2) The Manager of Procurement may conduct public openings at their discretion.

Bids to be in Writing

23. (1) Subject to subsection (2) the Municipality shall only consider bids that are submitted in writing.

(2) The Municipality may consider verbal bids for Low Value Purchases

Evaluation Criteria

24. (1) Bids will be evaluated in accordance with the evaluation criteria published in the call for bids.

(2) The Procurement Section shall ensure that each call for bids includes appropriate evaluation criteria to ensure the Municipality achieves Best Value.

Fairness Monitors

25. The Municipality may engage the services of a fairness monitor to monitor and report on the fairness of a particular procurement.

Pre-requisites to Awarding of Contracts

26. (1) The following pre-requisites shall apply to the approval of any contract award:

(a) the funds and program shall be approved and budgeted;

(b) the Goods, Services or Construction being purchased shall be consistent with the approved program deliverables; and

(c) the purchase shall be compliant with this Administrative Order, the Procurement Manual, and any other applicable policies, legislation and trade agreements.

(2) Any award requiring the approval of the CAO or Council requires a recommendation report and any such report shall:

(a) be prepared by the Department that initiated the procurement;

(b) be reviewed by the Procurement Section to ensure that the

procurement has been conducted in accordance with applicable policies, legislation, trade agreements and ethical business practices;

(c) provide details of the recommended purchase and describe the method of procurement used; and

(d) be signed by the appropriate Director and forwarded to the CAO or Council for approval.

Determination of Best Value

27. (1) Unless the Municipality determines that it is not in the public interest to award a contract, the Municipality shall award the contract to the supplier whose bid the Municipality has determined represents Best Value.

(2) If the Municipality receives a bid from a supplier with a price that is abnormally lower than the prices in other submitted bids, the Procurement Section may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

(3) In the case of a tie bid, the Manager of Procurement may request the tied suppliers to submit a best and final offer, and if a tie bid still occurs, Best Value may be determined on the basis of a coin flip.

Award Authority

28. (1) The approval authority limits for the awarding of contracts are as follows:

Method	Manager	Director	CAO	Council
Low Value Purchase	\$10,000	\$10,000	\$10,000	\$10,000
Competitive Procurement	Per delegation of authority from Director [not to exceed \$100,000]	\$100,000	\$1,250,000	Any amount
Competitive Procurement – Street, sidewalk, & active transportation Construction projects	Per delegation of authority from Director	\$100,000	Any amount	Any amount
Competitive Procurement – Establishment of Standing Offer	\$5,000,000 (Manager of Procurement only)	\$5,000,000 (Director of Finance only)	\$5,000,000	Any Amount
Alternative Procurement	Per delegation of authority from Director	\$100,000	\$1,250,000	Any amount
Alternative Procurement – Urgent Circumstances per 16(1)(d)	Per delegation of authority from Director	\$100,000	Any amount	Any amount

(2) Notwithstanding the approval authority limits listed in subsection (1):

(a) a contract award must be forwarded to Council for approval where there is a legislative requirement for Council to approve the award, or where the CAO is of the opinion that the award is a matter best dealt with by Council;

(b) a contract award must be reviewed by Legal Services and forwarded to the CAO or Council for approval where the proposed supplier is not the lowest-priced or highest-scoring supplier;

- (c) the CAO may delegate their authority to a Director if:
 - (i) prior to Requisition, the Director prepares a report for the CAO recommending the purchase and receives written approval from the CAO to make the purchase;
 - (ii) the award is the result of Competitive Procurement;
 - (iii) the value of the contract to be awarded does not exceed 110% of the estimated value of the contract as reported to and approved by the CAO in accordance with sub-clause (i); and
 - (iv) the proposed supplier is the lowest-priced or highest-scoring supplier.

Signing Authority

29. (1) The following pre-requisites apply to the execution of any procurement contract on behalf of the Municipality:

- (a) the award of the contract must be approved in accordance with the authorities set out in section 28 of this Administrative Order; and

- (b) for all contracts (except Low Value Purchases), the contract terms and conditions must be reviewed by Legal Services or be in the form of a template approved by Legal Services.

(2) The authority to execute procurement contracts on behalf of the Municipality is as follows:

Position	Signing Authority
CAO	Any contract
Manager of Procurement	Any contract where the supplier is bound to the Municipality's standard terms & conditions
Director	Any contract where the award has been approved by the Director or by an employee in the Director's Department.
Manager	Per delegation of authority from his or her Director

(3) The CAO may set further conditions or procedures and make further delegations regarding signing authority provided that such conditions, procedures and delegations are not inconsistent with this Administrative Order.

(4) A Director may delegate to one or more Managers in their Department, the authority to execute contracts provided that:

(a) the Procurement Section is given a list of such delegations showing the delegate's name and amount that they have been delegated; and

(b) the amount of the delegation is no greater than the Director's award authority pursuant to section 28.

Publishing of Bid Results

30. In each instance where the Procurement Section has published a Notice of Intended Procurement, the Procurement Section shall publish a notice of contract award on the Procurement Web Portal no later than 72 days after the date the contract was awarded. The information shall remain readily accessible for a reasonable period of time. The notice of award shall include at least the following:

(a) a description of the Goods, Services or Construction procured;

(b) the name and address of the Municipality;

(c) the name and address of the successful supplier;

(d) the value of the successful bid;

(e) the date of award; and

(f) if Alternative Procurement was used, the conditions and circumstances described in section 16, and the corresponding trade agreement reference that justified its use.

Reporting of Awards

31. (1) The Manager of Procurement shall provide a report to the Council members, at least quarterly, containing a list of:

(a) all awards approved by the CAO;

(b) all awards exceeding \$100,000; and

(c) all awards exceeding \$50,000 resulting from Alternative Procurement.

(2) The report shall show the name of the contract, the name of the successful supplier, the amount of the contract, and the budgetary estimate.

CONTRACT MANAGEMENT

Contract Amendments

32. (1) All contract amendments are subject to the identification and availability of sufficient funds in the Council approved business planning and budget process.

(2) A contract amendment that increases the price of a contract shall not be made without a corresponding change in contract deliverables or scope of work, unless it is otherwise in the best interest of the Municipality to agree to the contract amendment.

(3) A contract amendment for the delivery of Goods, Services or Construction that were not included in the initial procurement shall:

- (a) meet the conditions for Alternative Procurement; or
- (b) be in the best interests of the Municipality.

(4) Contract amendments shall be tracked and significant variances substantiated.

(5) Approvals for contract amendments and copies of all contract amendments shall be documented in writing and submitted to the Procurement Section. Where practical, such submission shall be done prior to the work being undertaken.

(6) Approval formats for contract amendments will be as approved by the Manager of Procurement.

(7) The approval and signing authority limits for cumulative contract amendments are as follows:

Position	Approval Authority
Director (or his or her delegate)	(a) \$15,000; or (b) a 15% increase to the originally approved contract amount, whichever is greater.
CAO	(a) \$20,000 or (b) a 20% increase to the originally approved contract amount, whichever is greater.
CAO - Urgent Circumstances	Notwithstanding the above, in Urgent Circumstances the CAO may approve and sign a contract amendment for any amount, provided that the CAO must submit a report including the details of such contract amendments at the next scheduled meeting of the Audit & Finance Standing Committee.
Council	Any amount

Contract Options

33. (1) The exercising of any option under a contract is subject to the identification and availability of sufficient funds approved by Council through the business planning and budget process.

(2) Subject to alternate direction from Council at the time of contract award, the authority to exercise any contractually defined option, including an option to extend a contract, is as follows:

Option Authority	Total Cost of Exercising Option
Manager	\$10,000
Director	\$500,000
CAO	\$1,250,000
Council	Any Amount

Contract Assignments

34. The authority to consent to a request by a supplier to assign a contract to another person or entity is as follows:

Assignment Authority	Total Value of Contract
Manager of Procurement	\$500,000
CAO	\$1,250,000
Council	Any Amount

Contract Terminations

35. (1) The failure of a supplier to fulfill its obligations under any contract with the Municipality shall be documented by the Department responsible for the contract.

(2) Legal Services and the Procurement Section shall be consulted prior to the termination of any contract by the Municipality.

(3) The authority to approve the termination of a contract due to the default by the supplier of its obligations, or otherwise is as follows:

Termination Authority	Total Value of Contract
Director	\$500,000
CAO	\$1,250,000
Council	Any Amount

SUPPLIER PERFORMANCE

Performance Files

36. (1) Departments shall complete a supplier evaluation scorecard at the completion of each contract or as otherwise directed by the Manager of Procurement.

(2) The Procurement Section shall maintain supplier performance files that contain information supplied by Department and Procurement Section staff, including supplier evaluation scorecards.

(3) Supplier performance may be evaluated based on factors including safety, project management, scheduling and overall quality of work.

Disqualification & Suspension (Bid-Barring)

37. (1) Upon reasonable notice in writing to the supplier involved, and after a reasonable opportunity for response, the Municipality may formally disqualify or suspend a supplier from bidding on any Municipal procurement opportunities for a period not exceeding 5 years, on grounds including:

- (a) Bankruptcy or insolvency;
- (b) False declarations;
- (c) Significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior contract or contracts;
- (d) Final judgments in respect of serious crimes or other serious offences;
- (e) Professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier; or
- (f) Failure to pay taxes.

(2) A written decision shall be issued to the supplier disqualified or suspended setting out the reasons for its disqualification or suspension.

(3) Disqualification or suspension of a supplier shall be approved by the Manager of Procurement.

(4) Disqualification or suspension applies to the supplier and its owner(s) and principal(s).

Debriefings

38. (1) A supplier may request a debriefing after a contract is awarded if the request is made in writing to the Manager of Procurement within 10 business days of the award

notice being posted on the Procurement Web Portal.

(2) At a debriefing, suppliers can find out how their bid scored against published criteria, obtain comments from the evaluation team on their bid, and gather information on how future submissions may be improved.

(3) At a debriefing, bids shall not be compared to each other, nor shall information on other bids be provided.

Bid Challenges & Dispute Resolution

39. (1) Suppliers are encouraged to raise any concerns with the Procurement Section about a particular procurement or procurement process prior to submitting a formal complaint or commencing legal proceedings.

(2) Notwithstanding any other recourse available to a supplier, a supplier may submit a formal complaint to the Province of Nova Scotia's Chief Procurement Officer in accordance with the Province of Nova Scotia's Vendor Complaint Procedure.

TRANSITION AND REPEAL

Transition

40. A reference in an enactment to any previous Procurement Policy of the Municipality, is to be read as including a reference to the provisions of this Administrative Order relating to the same subject-matter.

Repeal

41. Administrative Order 2016-005-ADM, the *Halifax Regional Municipality Procurement Administrative Order*, adopted by Council on February 7, 2017 and all amendments thereto is repealed.

Done and passed in Council this day of _____, 2020.

Mayor

Municipal Clerk

I, _____, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on _____, 2020.

, Municipal Clerk

Notice of Motion:
Approval:

APPENDIX A – EXEMPTIONS

List of Exemptions

1. The following expenditures shall be exempt from the application of section 12 through 39 of this Administrative Order:

- a) Expenditures that, by their nature, are not expenditures for the acquisition of Goods, Services or Construction; and
- b) Expenditures that are expressly exempt from the public procurement requirements of applicable trade agreements including:
 - (i) public employment contracts;
 - (ii) non-legally binding agreements;
 - (iii) any form of assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives;
 - (iv) a contract awarded under a cooperation agreement with an international cooperation organization if the procurement is financed, in whole or in part, by the organization;
 - (v) acquisition or rental of land, existing buildings, or other immovable property, or the rights thereon;
 - (vi) measures necessary to protect intellectual property, provided that the measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination where the same conditions prevail or are a disguised restriction on trade;
 - (vii) procurement or acquisition of:
 - (i) fiscal agency or depository services;
 - (ii) liquidation and management services for regulated financial institutions; or
 - (iii) services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
 - (viii) procurement of:
 - (i) financial services respecting the management of government financial assets and liabilities (i.e. treasury operations), including

ancillary advisory and information services, whether or not delivered by a financial institution;

(ii) health services or social services;

(iii) services that may, under applicable law, only be provided by licensed lawyers or notaries; or

(iv) services of expert witnesses or factual witnesses used in court or legal proceedings; or

(ix) procurement of Goods, Services or Construction:

(i) financed primarily from donations that require the procurement to be conducted in a manner inconsistent with applicable trade agreements;

(ii) on behalf of a person or entity not subject to applicable trade agreements;

(iii) between the Municipality and enterprises that are controlled by or affiliated with the Municipality, or between the Municipality and another government body or enterprise or their affiliates;

(iv) by non-governmental bodies that exercise governmental authority delegated to them;

(v) from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;

(vi) under a commercial agreement when operating a sporting or convention facility;

(vii) conducted for the specific purpose of providing international assistance, including development aid, provided that the Municipality does not discriminate on the basis of origin or location within Canada of Goods, Services, Construction or suppliers; or

(x) conducted:

(i) under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or

(ii) under the particular procedure or condition of an international organization, or funded by international grants, loans, or other assistance.

Approval Authorities

2. Unless stated otherwise, addressed in another policy, or delegated by the CAO, the approval and execution of expenditures that are exempt from the application of this Administrative Order are subject to the following authority limits:

Position	Authority Limit
Manager	\$25,000
Director	\$100,000
CAO	Any Amount

3. Notwithstanding section 2, the procurement of external legal services must also be authorized by the Municipal Solicitor.

**ADMINISTRATIVE ORDER NUMBER 2020-003-ADM
SURPLUS ASSETS ADMINISTRATIVE ORDER**

BE IT RESOLVED, as an Administrative Order of the Council of the Halifax Regional Municipality, as follows:

Short Title

1. This Administrative Order may be cited as Administrative Order Number 2020-003-ADM, the *Surplus Assets Policy*.

Purposes

2. The purposes of this Administrative Order are to establish clear processes and to integrate environmental, economic and social considerations into decisions related to the redistribution, sale, donation and disposal of Surplus Assets.

Interpretation

3. In this Administrative Order,

- (a) “CAO” means the Chief Administrative Officer of the Municipality;
- (b) “Council” means the Council of the Municipality;
- (c) “Department” means a department of the Municipality’s administration designated as such by the CAO, and includes Halifax Regional Police and Halifax Regional Fire & Emergency;
- (d) “Municipality” means the Halifax Regional Municipality; and
- (e) “Surplus Assets” means personal property belonging to the Municipality that, in the opinion of the Department in possession of the property, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed for any current or foreseeable future need, but does not include land, buildings or other real property.

Application

4. This Administrative Order shall apply to the treatment of Surplus Assets by the Municipality.

Redistribution

5. (1) Where practical, Departments shall make Surplus Assets available to other Departments before seeking to dispose of them outside of the Municipality.

Sales

6. (1) At the request of a Department, the Manager of Procurement shall arrange for the sale of Surplus Assets that cannot be redistributed to other Departments.

(2) Surplus Assets shall be sold by the most effective means in order to obtain the highest net value for the Municipality.

(3) The authority to approve sales of Surplus Assets is as follows:

Sale Price	Approval Authority
Up to \$100,000	Manager of Procurement
Exceeding \$100,000	CAO

Less than Market Value Sales & Donations

7. (1) Notwithstanding subsection 6(2), Surplus Assets may be sold at less-than-market-value or donated to a not-for-profit organization, registered charity, municipality, crown corporation, Regional Centre for Education, public sector entity, or any level of government.

(2) The authority to approve less-than-market-value sales and donations of Surplus Assets is as follows:

Market Value	Approval Authority
Up to \$10,000	CAO
Exceeding \$10,000	Council

(3) In determining whether to approve a less than market value sale or donation of a Surplus Asset, the CAO or Council may consider any factor(s) they deem relevant, including but not limited to:

- (a) The recipient's reason for making the request;
- (b) Whether the recipient has pursued other options;
- (c) How the recipient proposes to manage the Surplus Asset;
- (d) If the recipient has the financial ability to manage the Surplus Asset;
- (e) If the recipient is located within the Municipality;
- (f) If the proposed use of the Surplus Asset is likely to benefit residents of the Municipality; or

(g) The market value of the Surplus Asset (i.e. the potential revenue lost).

Written Agreements Required

8. Sales and donations of Surplus Assets shall be documented through written agreements with recipients which shall include appropriate terms and conditions to mitigate risk to the Municipality.

Disposal of Unsellable Surplus Assets

9. Surplus Assets that cannot be sold or donated, or for which sales costs exceed the anticipated revenue, shall be considered as solid waste and disposed of by the Department owning such Surplus Assets, in a cost-effective and environmentally responsible manner, and in accordance with applicable legislation.

Additional Procedures

10. The CAO may authorize additional procedures and protocols related to Surplus Assets provided they are not inconsistent with this Administrative Order.

Transition

11. A reference in an enactment to any previous policies or procedures related to the disposal of Surplus Assets of the Municipality, is to be read as including a reference to the provisions of this Administrative Order relating to the same subject-matter.

Done and passed in Council this day of _____, _____.

Mayor

Municipal Clerk

I, _____, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on _____, _____.

, Municipal Clerk

Notice of Motion:
Approval:
