

Overview of Public Purchasing

Presented By:
The Government Purchasing
Agency

- Primary legislation
 - Public Tender Act
 - Public Tender Regulations
- Intergovernmental Trade Agreements
 - Atlantic Procurement Agreement
 - Agreement on Internal Trade

Public Tender Act



- Primary legislation governing procurement by Departments and GFB's
- Applied in conjunction with the Public Tender Regulations
- Main Goal – transparency, accountability and fairness

- Tenders are required when the estimated cost of;
 - Goods > \$10,000 excl. HST
 - Services > \$10,000 excl. HST
 - Public work > \$20,000 excl HST
 - Leases > \$10,000 (estimated annual rental value)
 - Professional Services not included (section 2(g))

- Regulations outline the requirements for tendering
 - Advertise on web based or printed media
 - Information to be included:
 - brief description of good / service or work to be done,
 - place to obtain information,
 - deadlines
 - time and place of opening, etc.

- Regulations - details for leased space tender documents:
 - All requirements respecting the space
 - Specification standards for the space
 - Offer form
 - Proposed lease
 - Any other information deemed necessary

Public Tender Act



- Public tenders shall be opened in public at the prescribed place and time.
- Tenders may not be opened unless there are at least 2 acceptable witnesses present.
- Tender awarded to the preferred bidder.

Public Tender Act



- When no bids are received on a public tender
 - a second public tender shall be called unless the delay would be injurious to public interest
 - if second tender cannot be called the acquisition may be completed using three quotes or FRP

Public Tender Act



- No bids received after a second public tender call
 - may execute the work or acquisition using three quotes or FRP

- Request For Proposals within the Public Tender Act
 - Used when it is determined a tender would not achieve best value – many criteria to be considered
 - Cabinet approval required prior to issuance

- Information required in RFP
 - Outlined in Section 9 of the Regulations
 - Work or acquisition requirement
 - Criteria to be used in the evaluation
 - Methods for weighing & evaluating the criteria

Public Tender Act



- No (Acceptable) Proposals Received
 - May negotiate with sources identified as being able to complete the work or supply the good/service

- **Description/Specifications**

- Written by GFB employees
 - determine requirements, **timelines**, delivery locations, etc.
 - ensure requirements, terms and conditions are clear
- Research the product
- Do not write specification directly from supplier catalogue

Description



- Be as generic as possible
 - Use of brands can delay the process
 - Branding is non-competitive
 - Brands, when used, for information purposes only

- Do not write a specification to eliminate a supplier

- Encourage competition

Backhoe tender unearths problems

Clarke's Beach council, under threat of legal action, rescinds tender call

By TERRY ROBERTS

TRANSCONTINENTAL MEDIA—CLARKE'S BEACH

A red-faced town council in Clarke's Beach has rescinded a tender call for a new backhoe after a supplier of heavy equipment accused the town of undermining the true spirit of the Public Tender Act.

A senior official with the provincial Department of Municipal Affairs also cautioned the town to "be careful," the town's Deputy Mayor, Kevin Hussey, said during a public council meeting Feb. 28.

The controversy surrounds a recent tender call by the town for the supply and delivery of a new rubber-tire backhoe. The closing date for tenders was March 4.

The tender specifications said the town required a "JCB 214S or equivalent" model with four equal-size front and rear tires.

The problem is JCB is an actual manufacturer of heavy equipment.

The supplier of a rival model of backhoe, Stone Valley Equipment Ltd., took issue with the JCB reference in the tender call and complained to the town, Municipal Affairs and the Government Purchasing Agency.

"The specifications appear to favour a particular model of machine," Randy Crane, general manager of Stone Valley, wrote in a letter to the town.

Crane added the specifications appear to be "clearly written around this machine, and appears to eliminate any competition."

Crane said he had discussed the matter with officials from the government, and "it is our opinion that Stone Valley Equipment, as well as other equipment dealers, may have legal recourse if this tender proceeds in its present written form."

The issue generated a heated debate at the Feb. 28 meeting, with council voting 4-3 to rescind the tender and start over. Mayor Betty Moore, Hussey and councillors David Moore Jr. and Eldon Snow voted in favour, while councillors Garry Bendell, Roland Andrews and Winston Vokey opposed the motion.

Council was expected to meet late last week to restart the process.

Moore said she and most other members of council did not see the specifications, which were compiled by Coun. Bendell, who chairs the town's public works committee.

Most councillors agreed the reference to JCB should not have been included, but that was not enough for councillors to reach a



This JCB 214S backhoe was purchased by the Town of Brigus in late 2005. A tender call from the town to buy a similar machine has been withdrawn amidst complaints the town undermined the spirit of the Public Tender Act. — Photo by Terry Roberts/The Compass

consensus on the issue.

Andrews expressed frustration toward Municipal Affairs, and suggested officials with the department "stay out of it." And on the threat of legal action, Andrews stated, "let them take us to court."

Bendell said he followed the same procedures used by the Town of Brigus in late 2005. In its specifications, Brigus also referenced a JCB model, but there were no complaints from potential suppliers. Brigus eventually purchased the JCB for about \$126,000 from Harvey and Company Ltd., said town manag-

er/clerk Wayne Rose.

"The tendering process has likely changed a lot in the last five years," Rose told The Compass.

Stone Valley was the losing bidder on the Brigus tender.

Moore said it's not good enough that council followed the lead of another community. "I don't think (Brigus) did it right either," she said. "This has to be done so it's fair to everyone."

Moore described the issue as yet another setback for council, and noted "we're being

looked at" by Municipal Affairs because "we have so many black marks against us."

In fact, an official with the department met with council on March 9 to discuss the roles and responsibilities of members of council. Meanwhile, Bendell said there was no intent to undermine the Public Tender Act. But he emphasized that the town should have the right to specify exactly what it's looking for in a backhoe. The town plans to use the backhoe for snowclearing and general maintenance.

Public Tender Act



- Process when tender not required:
 - Obtain direct quotes from at least three suppliers, dealers or contractors, or
 - Establish a fair and reasonable price

Public Tender Act



- Direct quotes:
 - Telephone, fax, or e-mail
 - Give supplier reasonable amount of time
 - Time frame quote acceptable
 - Document details
- Fair and reasonable price
 - One direct quote substantiated with reference to trade catalogues
 - Compare two prices for competitiveness
 - Method of supplier rotation – unknown vehicle repairs

Public Tender Act



- Exceptions to tendering;
 - Pressing emergency
 - Sole source acquisition
 - Set rates established by the Public Utilities Act
 - Urgent need to vacate an existing premises and there is insufficient time to issue a tender
 - A lease was originally tendered and contains a renewal option – no increase in space
 - PTA Sections 3 & 4
 - Form B required as per PTA Section 10

Central Purchasing Authority (CPA)



- Establish multiple contracts for use by Departments and GFB's
 - Provides for the acquisition of goods and services at predetermined prices, terms and conditions.
 - GFB's must opt-in to purchase from these contracts.
 - GFB's must delegate their purchasing authority to the Agency for these contracted items only.
 - Ensure terms and conditions meet your requirements.
 - Contact – Betty Field 729-6965

CENTRAL PURCHASING AUTHORITY

TENDER CONTRACTS

SUPPLIES RELATED TO WATER AND SEWER
INDUSTRIAL & MEDICAL GASES
CORRUGATED PIPE
FLAKE CALCIUM CHLORIDE FOR DUST CONTROL
TOILET TISSUE & PAPER TOWEL
ENVELOPES
FLUORESCENT, INCANDESCENT, HID LAMPS/BALLASTS
CHEMICAL & CLEANING SUPPLIES
OFFICE SUPPLIES
GARBAGE BAGS (NO CONTRACT IN PLACE AT PRESENT)
BOND COPIER PAPER
FUEL PRODUCTS
LUCRICANTS & GREASES
TIRES & LUBES
CONING TRAFFIC PAINT
PAINT & RELATED ITEMS
LIQUID CHLORINE & OTHER CHEMICALS FOR WATER TREATMENT
REMANUFACTURED LASER PRINTER CARTRIDGES
ORIGINAL NEW (OEM) LASER PRINTER CARTRIDGES
CUTTING EDGES
GRADER BLADES
ORIGINAL NEW (OEM) LASER INK JET CARTRIDGES
COMPUTER DISKETTES, STORAGE BOXES & MAILERS
CREDIT CARD SYSTEM FOR GASOLINE. DIESEL FUEL & RELATED
BATTERIES FOR PASSENGER CARS, LIGHT TRUCK & HEAVY
BATTERIES – ALKALINE
PRESSURE TREATED LUMBER
ANTIFREEZE
FILING CABINETS
BUILDING SUPPLIES
PLUMBING SUPPLIES
ELECTRICAL SUPPLIES

Intergovernmental Trade Agreements



- The Province is a participant in two intergovernmental trade agreements;
 - Atlantic Procurement Agreement – four Atlantic provinces
 - Agreement on Internal Trade – provinces, territories and federal government

Intergovernmental Trade Agreements



- **Thresholds (APA)**
 - Goods greater than \$10,000 (Jan '08)
 - Services \$50,000 or greater
 - Construction \$100,000 or greater
- **Thresholds (AIT)**
 - Goods \$25,000 or greater
 - Services and construction \$100,000 or greater

Intergovernmental Trade Agreements



- Reduce barriers to trade
- Eliminates provincial preference
- 15 calendar day public posting
- Acceptance period 30 – 90 days
- Conflict resolution committee in place with AIT

Reporting Requirements



- When a tender is invited, the GFB must
 - inform the Chief Operating Officer of the GPA with information respecting the tender
- When the tender is awarded, the GFB must
 - Provide the Chief Operating Officer with information respecting the tender award within 30 days
- The GFB must also state the tender was awarded in accordance with the Public Tender Act (Sections 10.1 & 10.2)

- Tender Award and Reporting System
 - Web based system
 - Made available since August 2007.
 - To date 38 GFBs are registered users.

Reporting Requirements



- 15 Registered Municipalities using the System.
- Included are:

City of St. John's
City of Corner Brook
City of Mount Pearl
Town of Bay Roberts
Town of Bishop's Falls
Town of Botwood
Town of Burin
Town of Winterton

Town of Conception Bay St.
Town of Gander
Town of Labrador City
Town of Marystown
Town of North West River
Town of Stephenville
Town of Wabana

Reporting Requirements



- For registration procedures contact:

Wanda Barron

Government Purchasing Agency

(709) 729-3618

email: barronw@gov.nl.ca

- GPA Website – www.gpa.gov.nl.ca
 - Public Tender Act
 - Public Tender Regulations
 - Agreement on Internal Trade
 - Atlantic Procurement Agreement
 - Posted tenders
 - Awarded tenders