

## Document 4



**GENERAL CONTRACTORS ASSOCIATION OF OTTAWA  
L'ASSOCIATION DES ENTREPRENEURS GÉNÉRAUX D'OTTAWA**

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196 Bronson Avenue, Ottawa, Ontario, K1R 6H4

[www.gcaottawa.com](http://www.gcaottawa.com)

**February 11, 2010**

**Mr. Robert Jellett, Chair,  
Corporate Services and Economic Development Committee,,  
City of Ottawa**

**By e-mail: [rob.jellett@ottawa.ca](mailto:rob.jellett@ottawa.ca)**

**Dear Mr. Jellett:      Re: Procurement Policies, City of Ottawa**

**At the recent meeting of this Association's Board of Directors on January 15th, strong concern was expressed concerning proposed changes to the *Purchasing By-Law* whereby (a) firms engaged in litigation with the City of Ottawa could be prohibited from bidding on future contracts and (b) local preference would be exercised in the case of tied bids.**

**It is understood that the first of the above proposals has been modified so that it is now a discretionary option available to the City's top official on grounds that are yet to be defined. The Association would like to go on record as vigorously opposing the previous proposal and recommending that the suggested "grounds" be discussed with stakeholder business groups before being adopted.**

**The Association contends that it would be most inequitable to discriminate against a firm because it is involved in litigation against the City. Construction contracts provide for the Settlement of Disputes. Those which go to arbitration or litigation usually favour the contractor, at least in substantial part. To deny a firm from bidding during an unresolved and justified legal action assigns "guilt" where none has been decided. Such cases can be prolonged. Moreover, the establishment of such a blanket ban could well operate against the City's best interests by the ensuing reduction of competition. What if the litigant contractor submits the lowest bid? Its rejection would be a waste of taxpayers' money.**

**The incidence of tied lowest bids in construction is exceedingly rare. However, the Association opposes in principle the proposal that "local preference" should apply in any such cases because of the latent danger that it could set a precedent for further applications. The Association has a long-standing policy statement opposing their operation and it is**

**gratifying that the City of Ottawa has not exercised such a practice since it was rejected by Mayor Charlotte Whitton. Local Preference results in undue restrictions of competition and unnecessary additional expenditure of public funds. Moreover, its operation by a municipal government or other public body inevitably leads to retaliatory measures by Owners in other jurisdictions. This would put local General Contractors to an overall disadvantage.**

**The Association would be pleased to elaborate on these representations if so desired.**

**Yours sincerely,**



**Hubert Splinter,  
First Vice-President and  
Chair, Tendering Practices**

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**Copy – Wayne Newell, Director of Infrastructure Services**

**Jeff Byrne, Manager of Supply**

**Robert Vaillancourt, Manager of Design & Construction of Buildings  
and Parks**

**GCAO Board of Directors**

**John DeVries, President, Ottawa Construction Association**

**Clive Thurston, President, Ontario General Contractors Association**



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May 10, 2010

Mr. Jeff Byrne, Manager, Supply  
Supply Management Branch  
City of Ottawa

By e-mail: [jeff.byrne@ottawa.ca](mailto:jeff.byrne@ottawa.ca)

Re: Bidding Prohibition against Suppliers Engaged in Litigation with the City

Dear Mr. Byrne,

Thank-you for your request of April 1, 2010 for our associations additional comments on the proposed city purchasing by-law prohibiting certain firms from bidding on City contracts. The request was circulated to our entire membership for their review and comment.

Firstly we would like to reiterate our previous comments that it would be most inequitable to discriminate against a firm because it is involved in litigation against the City.

Regarding the proposed provisions for a discretionary approach we contend that should a bidder be rejected that the City be obligated to notify the bidder ahead of the RFP being issued.

We agree with Councillor Monette's motion concerning Health and Safety and that the City deals with firms who do not conform to the safety regulations. However we feel it may be difficult for the City to assess also the proposed 5 year assessment period indicated could potentially eliminate newer competent firms from bidding. Clearly this would not be in the City's best interest and could result in less competitive pricing.

Concerning apprenticeship support, our membership does not consider this to be applicable contract performance criteria, as general contractors most of us do not employ trades workers and or apprentices and therefore strongly oppose the proposed measure.

We would be pleased to discuss any questions or details regarding the above at your convenience.

Yours sincerely,

Hubert Splinter  
First Vice-President and  
Chair, Tendering Practices

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Copy – GCAO Board of Directors