


Number: PUR1  
Administered by: Procurement  
Approved by:   
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**CITY OF**  
*Lethbridge*

## **PROCUREMENT OF GOODS AND SERVICES**

### **PURPOSE**

Strong financial leadership and planning ensures the long-term viability of the corporation. The purpose of this policy is to achieve the best value for the corporation through procurement processes that are open, fair and transparent.

### **PERSONS AFFECTED**

City Council/Employees/Special Purpose Bodies

### **POLICY STATEMENT**

It is the policy of the City of Lethbridge to conduct procurement processes that conform to the following principles:

- a) Compliance with all applicable laws, regulations, by-laws, policies and trade agreements as further set out in Schedule 1 to this policy;
- b) Using a competitive process for all purchases except where the procurement meets specific justification as defined in this policy and in accordance with the applicable trade agreements;
- c) Open, fair and transparent procurement that affords equal access to all qualified suppliers;
- d) Reciprocal non-discrimination and geographic neutrality with respect to Alberta's trading partners and avoidance of preferences for local suppliers;
- e) Achieving best value for the City for the expenditure of public funds through consideration of the full range of procurement formats and the adoption of commercially reasonable business practices;
- f) Effective balance between accountability and efficiency; and
- g) Ensuring adherence to the highest standards of ethical conduct.

## **RESPONSIBILITIES**

### **Business Unit Manager or designate to:**

- Identify the need and develop requirements and specifications to be satisfied through a Procurement
- Build a Procurement Project Plan and obtain appropriate conditional approval prior to proceeding to market or soliciting bids
- Identify an available and approved funding source and verify the assigned account number
- Authorize purchases that are within their delegated authority as set out in this policy
- Ensure employees involved in Procurement Projects have appropriate training
- Ensure Business Unit compliance with all procurement policies, applicable laws; trade agreements and regulations
- Support the provision of appropriate education and training to employees involved in Procurement Projects

### **Office Manager or designate to:**

- Advise Business Unit Manager on budget availability and potential sources of funding prior to proceeding to market
- Assign an appropriate account number to be utilized for the Procurement Project
- Identify any applicable conditions which must be adhered to if grants are to be used in whole or in part to fund the procurement

### **Director or designate to:**

- Validate purchases that exceed the delegated authority of the Business Unit Manager
- Support the promotion of sound procurement practices and appropriate education and training to employees involved in procurement
- Ensure divisional compliance with all procurement policies, applicable laws, trade agreements and regulations

### **Purchasing Manager or designate to:**

- Advise City Manager on policies, regulations and legislation affecting procurement
- Ensure procurement policy is readily accessible to City employees, vendors and the general public
- Report corporate procurement activity to City Council on a regular basis
- Provide appropriate orientation, training and tools to employees involved in public procurement activities

- Advise Business Units on market conditions and strategies in developing budgets, planning projects, framing business cases and buying decisions
- Advise on the procurement of Major Projects
- Authorize purchases that exceed the delegated authority of the Business Unit Manager
- Advocate compliance with this policy and sound procurement practices
- Analyze on a continual basis, the City's business requirements and identify opportunities for cost savings and strategic sourcing

City Solicitor or designate to:

- Finalize formal contracts and agreements following the supplier selection and approval process and prior to commencement of work
- Review and advise on proposed changes to City standard terms and conditions
- Upon contract completion, conduct a title search (if applicable) in order to determine whether it is appropriate to release any holdbacks and advise on the appropriateness of the release of any applicable bonds
- Provide legal advice and counsel to the organization in the event of a contract dispute or challenge flowing from a Procurement Project

City Manager or designate to:

- Act as Chief Purchasing Agent of the City in accordance with The Council-Manager Bylaw
- Establish administrative procurement policies in accordance with all applicable laws, trade agreements and regulations
- Ensure organizational compliance with all procurement policies, applicable laws, trade agreements and regulations
- Support the promotion of sound procurement practices and appropriate education and training to employees involved in procurement
- Authorize purchases that exceed the delegated authority of the Purchasing Manager

City Council to:

- Determine the allocation of resources through an approved Operating and Capital budget
- Authorize purchases that exceed the delegated authority of the City Manager

## **PROCEDURES**

Detailed procedures are set out in Schedule 2 of this policy. The procedures listed in Schedule 2 do not apply to the following transactions:

- a) Insurance premiums, payroll tax and benefit remittances
- b) Real property acquisition and dispensation
- c) Education/training courses, seminars, conferences provided by third parties which are delivered off-site of any City facility.
- d) Memberships or dues
- e) Subscriptions for newspapers, magazines and periodicals
- f) Postage
- g) Charges or remittances to other governmental bodies
- h) Operating grants to community and social groups
- i) Original art work
- j) Charges or remittances to owners of utility infrastructure for movement, relocation or adjustments to their property located within a designated right of way
- k) Licenses, or maintenance agreements for existing, proprietary software systems

Notwithstanding that the transactions listed above are not subject to the Competitive Process outlined in this policy, Business Units should ensure that the City is achieving good value for all purchases.

## **PROCUREMENT TRAINING**

The Procurement Department, in consultation with Business Units, will provide orientation and training as required to City employees involved in procurement activities.

Business Units are to ensure employees involved in procurement activities have the appropriate training and notify the Procurement Department when new employees are hired or there are changes in duties affecting current staff.

## **PROCUREMENT VALUE**

In order to fulfill the City's trade agreement obligations and to ensure that Procurement Projects are appropriately streamed, an accurate estimate of the total value of the Procurement Project is required. The estimated procurement value should include all the costs payable to the contractor or supplier by the City which are integrally linked to the acquisition including delivery, installation, training and maintenance fees.

Subdividing projects or splitting contracts to reduce the procurement value in order to avoid the requirements of this policy is not permissible.

## **APPROVAL AND VALIDATION AUTHORITY**

Individuals performing procurement activities on behalf of the City must have authorization to do so. The *Municipal Government Act* confers the sole authority

to expend City funds to City Council. This authority is delegated to the City Manager through The Council-Manager Bylaw and then further to the Purchasing Manager and Business Unit Managers through this policy.

The thresholds established for Conditional Approval of Project Procurement Plan and Final Approval of vendor selection and procurement of goods and services are set out in Schedule 3 of this policy.

### **CONFLICT OF INTEREST AND ETHICS**

The City's procurement process must be conducted with integrity so as to maintain the public's trust.

The City must ensure that it effectively manages internal and external conflicts of interest.

- a) Internal Conflict of Interest—the City's *Code of Ethical Conduct* (HR10) must be adhered to in connection with all Procurement Projects.

All participants in the Procurement Project (including all procurement staff, all involved members of the Business Unit, and all members of the evaluation team) must ensure that there are no internal conflicts of interest.

The *Municipal Government Act* also regulates the manner in which current elected officials of the City or their family members may engage in business with the City where they have a pecuniary interest. Businesses in which a current elected official or their family has a pecuniary interest are eligible to bid on work with the City, provided that:

- i. they do not have role in creating, conducting or evaluating Bids;
- ii. the pecuniary interest is disclosed to City Council prior to any discussions on the matter;
- iii. the matter is submitted to City Council for approval prior to an agreement or other form of commitment being signed;
- iv. they remove themselves and abstain from voting on any question relating to the matter.

Elected members of City Council must not have any direct or indirect involvement in any Procurement Project or decision outside of the required approvals set out in this policy.

- b) External Conflict of Interest

- i. In addition to ensuring that there are not internal conflicts of interest, Procurement Projects must also be free of external conflicts of interest. All suppliers are required to declare, as part of their Bid in a procurement process, that there are no conflicts of interest or

provide details of any actual or apparent conflicts of interest. The Procurement Department must ensure that all procurement templates include appropriate conflict of interest language and declarations.

- ii. A conflict of interest can arise when a supplier is retained to participate in the development of a Competition Document (including the specifications) or to provide consulting services in connection with an initial or earlier phase of a multi-phase project. In such situations, Business Units must assess, in consultation with the Procurement Department, whether such a supplier would have an unfair advantage over other Bidders as a result of their previous work on the project. If it is determined that such an advantage exists, the City must then further determine whether it can be effectively mitigated. If an advantage exists and it cannot be effectively mitigated, the supplier should be precluded from submitting a Bid or directly or indirectly participating in the submission of any Bid in response to a subsequent or related Competition Document.

Business Units should conduct this assessment at the beginning of the entire Procurement Project before any suppliers have been retained. Where it is determined that a potential Bidder will be disqualified from participating in downstream phases because of a conflict of interest, it must be disclosed in the initial procurement process by which the supplier is retained.

### **NON-COMPLIANCE AND REPORTING**

City employees must adhere to the City's procurement policies. Business Unit Managers, Directors and the City Manager are responsible for ensuring compliance. If and when non-compliance is detected the Purchasing Manager is responsible for reporting such activity to the appropriate Business Unit Manager, Director and/or the City Manager.

### **DEFINITIONS**

- a) **Addenda/Addendum** means written changes after issuance of a Competition Document which are meant to correct errors or to clarify or disclose additional information and that will form part of the final contract;
- b) **Bid** means a submission in response to a Competition Document;
- c) **Bidder** means a supplier that submits a Bid;
- d) **Bid Security** means a surety bond or other financial instrument submitted by a Bidder to the City, upon request, which obligates the Bidder to honour their submitted Bid or forfeit the bid security value which may be up to 10% of the total value of the Bid.
- e) **Business Unit** means one of the City's recognized Business Units as per Appendix A;

- f) **City Manager** means the person appointed by City Council to manage the City's business;
- g) **City Solicitor** means the City's legal department;
- h) **Competition Document** means the document used to solicit Bids and includes Invitation to Tender (ITT); a Request for Proposals (RFP); a Request for Quotations (RFQ); and a Request for Supplier Qualification (RFSQ);
- i) **Competitive Process** means either an Open Competition or an Invitational Process;
- j) **Direct Award** means a contract award outside of a Competitive Process, as further defined in Schedule 2, Section 1.1(a)(iii) of this policy;
- k) **Emergency Purchases** means a situation where the purchase of the goods or services was necessary because of an immediate risk to the safety or health of City employees or the general public or because of the possibility of serious damage to City or private property;
- l) **Invitational Competition** means an invitation to at least three suppliers to submit Bids, as further defined in Schedule 2, Section 1.1(a)(ii) of this policy;
- m) **Limited Competition** means a Procurement Project whose value would otherwise require an Open Competition, but the circumstances fall within one of the exceptions prescribed in Schedule 2, Section 1.4 and as an alternative to a Direct Award, permits an Invitational Competition;
- n) **Major Project** means a project that is of a value, complexity, risk level or profile that requires it be given a significant allocation of attention and time from the Business Unit and the Procurement Department, as well as the potential involvement of other departments or stakeholders;
- o) **Open Competition** means a publicly posted Competition Document, as defined in Schedule 2, Section 1.1(a)(ii) of this policy;
- p) **Procurement** means the process by which the City of Lethbridge obtains goods and services to support the delivery and maintenance of municipal programs, services and infrastructure. Effective procurement is a critical support function for the City in responsibly managing public funds.
- q) **Procurement Department** means the City's purchasing and procurement department;
- r) **Procurement Project** means any purchase of goods, services or construction by one of the City's Business Units and includes Major Projects and Direct Awards;
- s) **Purchasing Manager** means the head of the Procurement Department; and
- t) **Special Purpose Bodies** means a City Council Committee or a Board, Commission or other body established under the legislative powers of the City of Lethbridge and includes any employees or volunteers of the Special Purpose Body. (See Appendix B for a list of Special Purpose Bodies).

## **REFERENCES**

- The Council-Manager Bylaw
- Financial Security Requirements for Construction Projects Policy, PUR3
- Code of Ethical Conduct Policy, HR10
- Procurement Project Plan

## **REVISION HISTORY**

- March 22, 2004: Significant revision replaces Purchasing of Material – Supplies and Services by Departments (Purchasing & Stores 4), Emergency Purchases (Purchasing & Stores 5), Purchasing by Tender (Purchasing & Stores 6), Quotations (Purchasing & Stores 7) and Retaining Professional Engineering and Architectural Services (Council 44)
- June 16, 2008: Revisions to Approval and Validation Threshold Matrix
- June 15, 2011: Revisions to reflect changes in Trade, Investment and Labour Mobility Agreement (TILMA) and the New West Partnership Trade Agreement (NWPTA)
- May 1, 2012: Significant revisions replaces Authorization to Purchase (PUR1) and Procurement of Goods and Services (PUR2)
- July 4, 2016: Significant revisions, two additional transaction types that are exempt (utility right of way and software maintenance), price criteria moved to 30% minimum, approval matrix thresholds updated (Schedule 3)
- April 29, 2019 – Revisions to City Solicitor duties; conformance to new Council Manager Bylaw, changes to Evaluation Plan points



## Schedule 1

### Applicable Laws, Trade Agreements and Regulations

1. Procurement activities at the City of Lethbridge must be conducted in accordance with all laws, regulations and standards, including, but not limited to:
  - i. *Income Tax Act* and Regulations
  - ii. *Excise Tax Act* and Regulations
  - iii. *Occupational Health and Safety Act* and Regulations
  - iv. *Worker's Compensation Act* and Regulations
  - v. *Freedom of Information and Protection of Privacy Act* and Regulations
  - vi. *Municipal Government Act* and Regulations
  - vii. *Competition Act* and Regulations
  - viii. City of Lethbridge Bylaws and all City Council and administrative policies
  
2. Procurement activities at the City of Lethbridge must comply with the following binding Trade Agreements:
  - i. Canadian Free Trade Agreement (CFTA) - all Provinces & Territories
  - ii. Trade, Investment and Labour Mobility Agreement (TILMA) - Alberta, British Columbia
  - iii. New West Partnership Trade Agreement (NWPTA) - Alberta, British Columbia, Saskatchewan
  - iv. Comprehensive Economic and Trade Agreement (CETA) - Canada, European Union

## Schedule 2

### PROCEDURES

#### Section 1: Project Planning

##### 1.1 Procurement Project Plan - Overview

Effective Procurement Project planning is essential to ensure an effective result and to limit risk to the City. Business Units are responsible for ensuring the development and approval of a plan for each Procurement Project. The Procurement Department and the City Solicitor will act in an advisory capacity, where necessary, to develop the Procurement Project plan.

Business Units must consider the following general principles when developing a Procurement Project plan:

- a) The Business Unit must identify the appropriate stream as set out below:
  - i. **Framework, Existing Corporate Agreements or Internal Resources**

Prior to commencing a Procurement Project, Business Units must first consider whether there is a compelling need for the acquisition and must first consider the availability of existing supply sources, including existing frameworks or sources lists, corporate agreements or internal resources, including exploring job descriptions and capacity of City employees, where applicable.
  - ii. **Competitive Processes**
    1. Open Competition

An Open Competition involves the public posting of a Competition Document on the City's prescribed electronic tendering site and must be employed for all goods and/or

services whose estimated value is \$75,000 or greater or for construction where the estimated value is \$200,000 or greater.

2. Invitational Competition

Where the estimated value is less than the Open Competition thresholds the City may choose to engage in an Invitational Competition.

For the purchase of goods, services or construction greater than \$10,000 and less than \$40,000 a Business Unit should conduct an Invitational Competition by requesting Bids from at least three (3) qualified suppliers. The business unit is strongly encouraged to utilize bid templates made available by the procurement department. For the purchase of goods, services or construction of \$40,000 or greater and less than the Open Competition thresholds the Procurement Department may conduct an Invitational Competition by requesting Bids from at least three (3) qualified suppliers. Where the Procurement Project is particularly complex or the market conditions warrant it, the Procurement Department may advise the Business Unit that an Open Competition should be conducted. An Invitational Competition may also be used in circumstances of Limited Competitions.

3. Limited Competition

A Limited Competition may be conducted in cases where the estimated value of the goods, services or construction exceeds the Open Competition thresholds but, subject to the procurement fitting one of the exceptions to competition set out in Section 1.4(a) and (b), an Invitational competition may be undertaken as an alternative to a Direct Award.

iii. **Direct Award**

A Direct Award process, where the contract is awarded without using a Competitive Process, may only be employed in the specific circumstances set out in Section 1.4(a) and (b) of this policy.

- b) The Business Unit should develop a concise initial mapping statement for the Procurement Project Plan. The initial mapping statement clearly identifies what is to be procured. This initial mapping statement should be used to develop clear business requirements and to appropriately scope the contract.

- c) Where the Business Unit is uncertain about the specifications for a Procurement Project or where there is insufficient internal knowledge about the market, the Business Unit should confer with the Procurement Department about conducting a Request for Information (RFI) process. An RFI process should be openly posted in order to gather market research from prospective Bidders. It should not be used as a prequalification tool.
- d) The Business Unit should employ the internal Procurement Project Plan template to ensure that all components of project planning have been met. A copy of this up-to-date template is available on City Wise.
- e) Business Units must ensure that they leave sufficient time to plan for a Procurement Project, including:
  - i. developing proper specifications and business requirements;
  - ii. conducting stakeholder reviews;
  - iii. providing the requirements to the Procurement Department to enable Competition Document assembly; and
  - iv. obtaining necessary approvals.

The content requirements of a Procurement Project Plan are set out in Section 1.3 and 1.4.

## **1.2 Major Projects**

When conducting a Major Project, Business Units should consider the following:

- a) The appointment of an internal project lead to coordinate input from multiple departments or stakeholders;
- b) The early involvement of the Procurement Department, City Solicitor and Risk Management Department to ensure that all legal and risk considerations are appropriately addressed; and
- c) Where there may be insufficient internal resources your project planning should evaluate the need for the retention of external advisors to assist in developing specifications or business requirements.

## **1.3 Procurement Project Plan – Competitive Process**

The following components must be included and considered by the Business Unit in a Procurement Project Plan for both Invitational Competitions (including Limited Competitions) and Open Competitions:

- a) Funding Source – An approved funding source must be in place before proceeding with any Procurement Project. Funding sources may include the current operating or capital budgets, funding through special city council resolution, externally-funded grants or other cost sharing

agreements. Consideration must be given to the funding source when considering a multi-year contract or multi-phase project in order to properly structure the procurement document.

b) Requirements and Specifications – The Business Unit is responsible for drafting clear, detailed specifications and business requirements for each Procurement Project. Specifications may include any or all of the following:

- i. Physical characteristics;
- ii. Functional, performance or expected results characteristics;
- iii. Quality characteristics defined by recognized, third-party standards bodies; and
- iv. Intended use descriptors such as consumer grade, industrial grade, medical or laboratory grade, or suitability for use under extreme conditions.

When developing specifications, the Business Unit should take the following into consideration:

- i. Specifications cannot be written in a way that unduly restricts suppliers from bidding on City business, but should encourage open, fair and transparent competition.
- ii. Unless established through a formal-standard setting exercise as prescribed by the Procurement Department, all specifications must be generic and non-branded. Where there is no other way to describe a specification, trade-marks or brands may be employed by way of reference, but cannot be used as the specification itself.
- iii. The need for performance security, if any. Business Units should reference the City's *Financial Security Requirements for Construction Projects* policy (PUR3) where applicable.
- iv. Business Units must ensure that all material disclosures are made in the Competition Document (i.e. information that goes to a Bidder's decision to submit a Bid or calculate proposed pricing.) Examples may include specific site restrictions or conditions, engineering reports or any other factors that Bidders should know to submit responsive pricing.
- v. Governing legal terms, such as indemnification and insurance and any other relevant legal requirements affecting the delivery of the goods or services should be included in the Competition Document. Business Units should consult with the City Solicitor and Risk Management Department for any questions concerning these specific requirements.

c) Pricing Structure – Business Units must develop a clear pricing structure for each Procurement Project. Pricing structures will depend on the

- specific purchase, but types of pricing structures to consider may include (but are not limited to) lump sum, unit rates, or time and materials. Pricing structures can also include price adjustment formulas and extension options, where applicable. Business Units should confer with the Procurement Department for recommendations and advice on appropriate pricing structures.
- d) Evaluation Plan – The Business Unit is responsible for developing an evaluation plan for each Competitive Process. The following principles of public procurement must be considered when developing an evaluation plan:
- i. Mandatory requirements should be kept to a minimum. Where there are mandatory threshold criteria, the requirements must be clear and capable of review upon submission.
  - ii. There are two basic evaluation models for the ranking of eligible Bidders:
    1. lowest price; and
    2. highest score, where qualitative criteria are rated and then combined with price for a total score.
  - iii. Where rated criteria are employed, all factors that will be considered in evaluating those criteria must be disclosed in the competition document. Further, the methods and weightings that will be used to evaluate the Bids must also be disclosed. Business Units should allocate the maximum justifiable amount to price. The minimum amount that must be allocated to price is 20% of the total points available.
  - iv. The formula for calculating price must be clearly established.
  - v. Where qualitative factors are also being evaluated, the formula for adding price to the qualitative factors in order to calculate total score must be disclosed.
  - vi. Any short-listing process or qualifying or minimum scores must be disclosed and defensible and if presentations, interviews or references form part of the evaluation process, their weighting and impact on the eligibility or ranking of Bidders must be disclosed.
- e) Format Selection – The Business Unit, in conjunction with the Procurement Department, is responsible for selecting the most appropriate Competition Document format based on the range of template formats provided by the Procurement Department. Types of Competition Document formats include:
- i. Request for Quotations (RFQ) – Used to procure goods, services and/or construction where Bidder ranking is assessed based on lowest price or an evaluated criteria.

- ii. Invitation to Tender (ITT)- Used to procure goods or construction where the specifications or requirements are well-defined, the terms of the contract are clear and where Bidder ranking is assessed based on lowest price.

**NOTE:** The ITT format usually includes soliciting bid security or irrevocable Bids from Bidders and gives rise to a legally binding process called Contract A. Where a Procurement Project is operating within Contract A, the risk to the City is greatly increased and Business Units should confer with the Procurement Department to ensure that they fully understand the City's legal obligations during such Procurement Projects.

- iii. Requests for Proposals (RFP) - Used for more complex deliverables where Bidder ranking is assessed based on high score and where Bidder responses may help inform the development of final specifications or performance terms. This format allows negotiation of the contract with the selected Bidder.
- iv. Requests for Supplier Qualifications (RFSQ) - Used to prequalify suppliers in the first stage of a two-stage Open Competition. Bidders who meet the requirements of the RFSQ are eligible to participate in the second stage and are invited to respond to a subsequent Competition Document (e.g. ITT or RFP).

Factors to consider in choosing the appropriate Competition Document format include:

- i. Value and complexity of the purchase.
- ii. Whether bid security is required. Bid security and irrevocable Bids should only be used in consultation with the Procurement Department and where there are legitimate business requirements for doing so,
- iii. Where Bidder responses may help inform the development of final specifications or performance terms and the final contract will need to be negotiated with the top-ranked Bidder.

For Invitational Competitions less than \$40,000, the Procurement Project plan must also identify whether the Business Unit or the Procurement Department will be responsible for issuing the Competition Document to the invited Bidders and for administering the procurement process.

- f) Limited Competition - Where a Limited Competition is justified, the Procurement Project plan must also include an explanation for why the Procurement Project fits into one of the exceptions for Direct Awards set out in Section 1.4(a) and (b).

#### 1.4 **Procurement Project Plan - Direct Award**

The Business Unit must also develop a Procurement Project plan in Direct Award and Limited Competition situations. A Procurement Project plan for a Direct Award must address funding source [Section 1.3(a)]; requirements and specifications [Section 1.3(b)]; and pricing [Section 1.3(c)] in the same manner as would be included in a Procurement Project plan for a Competitive Process.

In addition, justification for not utilizing a competitive process must form part of a Procurement Project plan for a Direct Award:

a) Direct Award Justification - Goods/Services less than \$75,000; or Construction less than \$200,000

Under this policy, the purchase can only be made by Direct Award in the specific circumstances listed below and in Section 1.4(b). The Business Unit must provide full details to explain why the Procurement Project fits into one of the allowable Direct Award exceptions:

- i. Cost: goods or services are valued less than \$10,000
- ii. One-of-a-Kind: goods or service has no competitive product and is available from one source.
- iii. Compatibility: goods or service must match existing brand of equipment for compatibility and is available from only one supplier.
- iv. Replacement part/item: replacement part/item for a specific brand of existing equipment that is available from only one supplier.
- v. Delivery Date: only one supplier can meet necessary delivery requirements.
- vi. Continuity: goods or service must comply with established City specifications and standards and is available from only one supplier.
- vii. Unique design; goods or service must meet physical design or quality requirements and is available from only one supplier.
- viii. Emergency: risk of safety and health; acts of God; urgent need for the item or service does not permit soliciting competitive bids.

These justifications are in accordance with the Canadian Free Trade Agreement (CFTA).

b) Direct Award Justification - Goods/or Services \$75,000 or greater or Construction \$200,000 or greater

Under this policy, the purchase can only be made by Direct Award in the following specific circumstances. The Business Unit must provide full details to explain why the Procurement Project fits into one of these allowable Direct Award exceptions:



- i. Where an unforeseeable situation of urgency exists and the goods, services or construction cannot be obtained in time by means of a Competitive Process. Note: In cases of Emergency Purchases, it is not necessary to have a project plan in advance of the Direct Award; however, an explanatory project plan must be drafted after the Emergency Purchase is complete in order to justify the use of the Direct Award procedure.
- ii. Where goods or services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a Competitive Process could reasonably be expected to compromise confidentiality, cause economic disruption or otherwise be contrary to the public interest.
- iii. Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and pre-mixed concrete for use in the construction or repair of roads.
- iv. In the absence of a receipt of any Bids in response to a Competitive Process made in accordance with this policy.
- v. Where it can be demonstrated that only one supplier is able to meet the requirements of a Procurement Project.
- vi. The goods are intended for resale to the public.
- vii. The goods or services that are being procured from philanthropic institutions, prison labour or persons with disabilities.
- viii. The goods or services are being purchased from a public body or a non-profit organization.
- ix. The goods are being purchased for representational or promotional purposes.
- x. The services (including construction) are being purchased for representational or promotional purposes outside of Alberta.
- xi. The goods or services are being procured on behalf of an entity not covered by a trade treaty to which Alberta is a party.
- xii. The goods or services are being procured from an entity that operates a sporting or convention facility in order to respect a commercial agreement containing provisions that contradict this policy.
- xiii. In procuring health and social services.
- xiv. The services are provided by lawyers and notaries.
- xv. The services or financial products related to borrowing, lending, investing, managing or holding money, securities or other property. This includes managing debt, loan, asset or investment portfolios, entering into commodity or other derivative transactions or acquiring, exchanging, disposing of, or transacting in securities, foreign currencies or any property acquired as a

result of borrowing, lending, managing or investing money or securities.

These justifications are in accordance with the New West Partnership Trade Agreement (NWPTA).

- c) Selection Plan – Notwithstanding that a Direct Award purchase is not subject to a Competitive Process, the Business Unit must still explain how the supplier being awarded the contract will be selected, including reference to how qualifications will be evaluated and how Business Unit will ensure that the City is getting value for money through the selection of the supplier.

### **1.5 Conditional Procurement Project Approvals**

After developing a Procurement Project Plan and before either posting the Competition Document or seeking Bids from suppliers, the Business Unit must seek conditional approval in accordance with the thresholds set out in Schedule 3 of this policy.

Conditional approval permits a Business Unit to proceed with the Procurement Project. Final approval to select a vendor and award the contract must still be obtained in accordance with Schedule 3. Once a Direct Award has been conditionally approved, the Business Unit may engage in negotiations with the prospective vendor before finalizing the selection in accordance with Schedule 3 of this policy.

### **Section 2: Procurement Document Assembly**

Once a Procurement Project plan for a Competitive Process has been completed and conditionally approved, the Business Unit must provide the plan to the Procurement Department to enable the assembly of the Competition Document. The Procurement Department is responsible for reviewing the Procurement Project plan for procurement issues, including:

- a) Confirmation that the most up to date template is used.
- b) Alignment between the technical requirements and specifications, legal terms and pricing structure.
- c) Ensuring that administrative matters such as procurement process dates, contact information and requirements for obtaining the Competition Document have been included where appropriate.
- d) Confirmation that the Procurement Project schedule allows a reasonable timeframe for Bidders to respond.
- e) Obtaining final review of the Competition Document by the appropriate Business Unit representative.

### **Section 3: Competition**

Once the Competition Document has been reviewed and is ready for release, the Procurement Project should proceed to the competitive phase in accordance with the following steps:

**3.1 Issuing Competition Document** - For Open Competitions, the Procurement Department is responsible for posting the Competition Document on the electronic tendering site prescribed by the applicable trade agreements. For Invitational Competitions, the Business Unit can issue the Competition Document if the estimated value is less than \$40,000 or request the Procurement Department to issue the Competition Document to the invited Bidders as set out in the Procurement Project plan.

### **3.2 Addenda Process**

- a) All changes to the Competition Document and all communications to Bidders after issuance of the Competition Document must be conducted through formal Addenda. All responses to Bidder questions should be issued as a formal question and answer document in the form of an Addendum. All Addenda must be issued in the same manner as the Competition Document.
- b) It is essential that all contact during the competitive phase be through the single, designated procurement contact person as disclosed in the procurement document. Other City employees who receive inquiries from Bidders must direct those Bidders to the designated procurement contact person.
- c) The Procurement Department is responsible for maintaining addenda templates.
- d) All questions received from Bidders must be collected by the individual named in the Competition Document. Once the questions have been reviewed and answered by the Business Unit for technical content, they should be forwarded to the Procurement Department (for Open Competitions) or the otherwise designated business unit contact person (for Invitational Competitions) for inclusion in an addendum.
- e) If an addendum containing significant new information is released within three (3) business days of the submission deadline, the City should extend the submission deadline to allow Bidders time to review and incorporate the addendum.
- f) The Procurement Department is responsible for tracking acknowledgement of addenda, except in instances where the Business Unit is conducting the Invitational Competition, in which case the Business Unit is responsible for the addenda process.

### **3.3 Bid Receipt**

- a) All Bids should be received centrally at the Procurement Department, except in instances where the Business Unit is managing its own Invitational Competition, in which case, Bids can be received directly by the Business Unit.
- b) Submitted Bids must be time and date stamped and signed upon receipt, even if received after the submission deadline.
- c) Bids received after the submission deadline are ineligible for consideration and must be returned to the Bidder unopened.
- d) Bids for Invitation to Tenders and Request for Quotations (Price Only) that are processed through the Procurement Department will have unofficial results posted within one business day on the City's prescribed electronic tendering site.

### **3.4 Bid Evaluations**

- a) Each evaluation process must be fair, defensible and transparent and must comply with the evaluation methodology disclosed in the Competition Document.
- b) Evaluators should ensure that all written notes relating to an evaluation process are kept and maintained in the appropriate procurement file. If the Business Unit has conducted its own Invitational Competition then it is responsible for maintaining the procurement file which should be kept inside a centralized repository as designated by the Procurement Department.
- c) Where an Open Competition is evaluated only on price, the Bids should be reviewed by at least one representative from the Business Unit and one representative from the Procurement Department.
- d) Where an Open Competition is evaluated based on a combination of price and non-price factors, the Evaluation team should be comprised of a cross functional group of people and must include a representative from the Procurement Department who will monitor and observe the entire evaluation process, including all group scoring sessions and any interviews, demonstrations or presentations required.

## **Section 4: Contract Formalization**

The following steps must be followed for all Procurement Projects in order to approve, award and finalize the contract:

- 4.1 **Final Recommendation** - The Business Unit should draft, in cooperation with the Procurement Department, a final recommendation in the format

prescribed by the Procurement Department that outlines all pertinent details of the Procurement Project.

This recommendation will be treated as a public document and it should be crafted with utmost care and attention.

- 4.2 **Award Approval** - The final recommendation to select a vendor and award a contract must be provided to the appropriate approval authority in accordance with the thresholds set out in Schedule 3 of this policy
- 4.3 **Supplier Selection Letter** - Once the necessary approval has been obtained, a selection letter should be sent to the successful supplier. This selection letter should indicate that they have been selected and will be receiving the necessary contract documents from the City Solicitor shortly. If the Business Unit has conducted its own Invitational Competition for less than \$40,000 then it is responsible for sending the supplier selection letter. Otherwise the supplier selection letter will be sent by the Procurement Department.
- 4.4 **Contract Finalization** - Once the supplier selection letter has been sent, the Procurement Project file should be sent to the City Solicitor's office to finalize the contract (if required). The City Solicitor will finalize the contract with the successful supplier. The contract should be executed by the supplier and then executed by the City.

The *Municipal Government Act* confers the sole authority to sign contracts to City Council. This authority is delegated jointly to the Mayor and the City Clerk, or their designate, through the City's *Signing Authority* policy (CC38). Other City employees do not have authorization to sign contracts or agreements.

## **Section 5: Post-Award Process**

Once the supplier has executed the contract, there are a number of processes that are necessary for the Procurement Department to conclude the Procurement Project and fulfill the City's public procurement obligations:

- 5.1 **Procurement Notification** - The Procurement Department is responsible for posting the results of Open Competition on the prescribed electronic tendering website and for reporting procurement activity to City Council.
- 5.2 **Debriefings** - Unsuccessful Bidders may request a debriefing. Debriefings should be scheduled with and conducted by the Business Unit in accordance with the protocols established by the Procurement Department. The Business Unit may consult with the Procurement Department on the administration of a debriefing. Business Units should limit the content of the debriefing to the requesting Bidder's submission and not disclose any information related to other Bidder's pricing or scores.

- 5.3 **Bid Protest Procedure** – Unsuccessful Bidders may also formally protest the outcome of a Procurement Project. In order to avail itself of the City’s bid protest procedure, the Bidder must first request and receive a debriefing. If the Bidder still wishes to challenge the outcome of the Procurement Project, they must formally protest the outcome in writing. The Business Unit must respond in a timely fashion to any bid protest and must respond with a schedule to address the Bidder’s concerns. The appropriate Business Unit representative, the Purchasing Manager and the City Solicitor must attend any bid protest meeting.

## **Section 6: Contract Management**

Once the contract has been signed, it is essential that it be properly managed. Business Units are responsible for all aspects of contract management. The following principles must be followed with respect to the management of all City contracts:

- 6.1 **Formal Contract** – The contract should be fully finalized and signed prior to the commencement of the services or the delivery of the goods.
- 6.2 **Scope Management** – The scope of each contract must be appropriately managed to ensure that all deliverables are properly received, payments are appropriately made, all timelines are met and any extension options are appropriately exercised.
- 6.3 **Payments to Suppliers** – Business Units are responsible for ensuring that all payments are made in accordance with the contract and for reviewing and approving supplier invoices.
- 6.4 **Scope and Contract Changes**
- a) If a planned contract change results in a net increase to the expenditure amount previously approved, approval must be sought from the City Manager in accordance with The Council- Manager Bylaw.
  - b) Contract scope changes that are cost neutral can be approved at the Business Unit level but must be appropriately documented.
- 6.5 **Contract Disputes** – All potential contract disputes with suppliers must be managed in accordance with the dispute resolution mechanisms outlined in the contract. Where a contract is silent on dispute resolution, Business Units should ensure that potential disputes are proactively managed and appropriately escalated. Written copies of all communications and correspondence with suppliers concerning a contract dispute must be maintained by the Business Unit.
- 6.6 **Performance Tracking** – Business Units must also ensure that the performance of all suppliers is appropriately monitored and recorded. Business Units must maintain written records of any performance issues, including correspondence or notifications to suppliers. Ensuring that

performance problems are addressed quickly and effectively and that a written record is kept of all matters connected with performance tracking is essential to proper contract management.

- 6.7 **Termination** – A contract can only be terminated prior to its expiry date on the advice of the City Solicitor.
- 6.8 **Bidder Barring** – Problematic suppliers can be potentially barred from future contracts with the City if performance issues have been properly documented and upon seeking the advice of the City Solicitor.

## **Section 7: Governance**

### **7.1 Establishment of Framework and Source Lists**

A Business Unit should consult with the Procurement Department if it wishes to establish a framework or source list for one of their frequently purchased goods or services. There are a number of different requirements to be met in order to establish a framework agreement or source list. Business Units must comply with all applicable rules governing the use of source lists as set out in the *Canadian Free Trade Agreement*, in accordance with the process established by the Procurement Department.

### **7.2 Procurement Record Keeping, Access to Information and Confidentiality**

Proper documentation should be maintained for all stages of the Procurement Project.

- a) **Access to Information** – The maintenance, release and management of all procurement records must be in accordance with the City's *Information Management* policy (IT1). The City is subject to the *Freedom of Information and Protection of Privacy Act*. The Procurement Department and Business Units must cooperate with the City's information management coordinator in connection with any requests for access to procurement-related documents.
- b) **Confidentiality** – The City must ensure that Bidder and supplier information submitted in confidence as part of a Procurement Project is adequately protected. The Procurement Department and Business Units must ensure that all Bids and contracts are kept in a secure location and only accessible by those individuals directly involved with the Procurement Project.
- c) **Procurement Record Keeping** – Business Units are responsible for ensuring that all documentation relating to the Procurement Project is properly filed in the Procurement Project file. The following are the

minimum requirements of what should be kept in each Procurement Project file:

- i. Internal drafts of all Competition Documents, including internal correspondence concerning same;
- ii. Original copies of all final Competition Documents;
- iii. Copies of the Procurement Project plan, together with evidence of all necessary conditional approvals;
- iv. If using an Invitational Process, evidence of quotations obtained from suppliers (e.g., copies of emails, written submissions);
- v. Records of any communications with Bidders or potential Bidders
- vi. Copies of all addenda;
- vii. Copies of all original Bids received from Bidders;
- viii. All records of evaluation processes, including evaluator notes and final scores;
- ix. Copy of the final recommendation memo together with all required approvals; and
- x. Copies of debriefing or bid protest procedure requests and outcomes.

If the Business Unit conducts its own Invitational Competition for less than \$40,000, the Procurement Project file is to reside and be maintained inside a centralized repository as designated by the Procurement department. Otherwise the Project Procurement file will reside and be maintained by the Procurement Department.



### Schedule 3

#### Section A - Conditional Procurement Project Approval Matrix

After developing a Procurement Project Plan and before either posting the Competition Document or seeking Bids from suppliers, the Business Unit must seek conditional approval in accordance with the following tables:

**a) Competitive Process**

Value	Approval Level Required	Validation Level Required
\$10,000 or greater and less than \$40,000	Business Unit Manager or designate	N/A
\$40,000 or greater and less than \$75,000	Purchasing Manager or designate	Director or designate
\$75,000 or greater	City Manager or designate	Director or designate

**b) Direct Award**

Value	Approval Level Required	Validation Level Required
Less than \$10,000 <sup>1</sup>	Business Unit Manager or designate <sup>2</sup>	N/A
\$10,000 or greater and less than \$25,000	Purchasing Manager or designate	Director or designate
\$25,000 or greater	City Manager or designate	Director or designate

The approvals listed above are only conditional approvals to proceed with the Procurement Project. Final approvals to select a vendor and award the contract must still be obtained in accordance with Section B of this Schedule. Once a Direct Award has been conditionally approved, then it should be finalized in accordance with Section B of this Schedule.

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<sup>1</sup> Multiple sole sources by one Business Unit to the same vendor, for the same goods and/or services, in the preceding twelve (12) month period cannot be used to avoid applicable thresholds.

<sup>2</sup> Fleet and Transit Maintenance may procure a replacement part/item for a specific brand of existing equipment when the amount is less than \$25,000.

**Section B - Final Award Approval Matrix**

The recommendation for vendor selection and award of contract must be submitted to the appropriate approval authority in accordance with the following thresholds:

**a) Competitive Process**

Value	Approval Level Required	Validation Level Required
\$10,000 or greater and less than \$40,000	Business Unit Manager or designate	N/A
\$40,000 or greater and less than \$75,000	Purchasing Manager or designate	Director or designate
\$75,000 or greater within previously approved budgets	City Manager or designate	Director or designate
Greater than previously approved budgets <sup>5</sup>	City Council	

**b) Direct Award**

Value	Approval Level Required	Validation Level Required
Less than \$10,000 <sup>3</sup>	Business Unit Manager or designate <sup>4</sup>	N/A
\$10,000 or greater and less than \$25,000	Purchasing Manager or designate	Director or designate
\$25,000 or greater within previously approved budgets	City Manager or designate	Director or designate
Greater than previously approved budgets <sup>5</sup>	City Council	

<sup>3</sup> Multiple sole sources by one Business Unit to the same vendor, for the same goods and/or services, in the preceding twelve (12) month period cannot be used to avoid applicable thresholds.

<sup>4</sup> Fleet and Transit Maintenance may procure a replacement part/item for a specific brand of existing equipment when the amount is less than \$25,000.

<sup>5</sup> City Manager may increase a capital budget by 15% of the approved budget up to a maximum of \$150,000 provided the funds are available within previously approved budgets.