

# Halifax Regional Municipality

## Procurement Manual

A series of protocols to provide detailed guidance to procurement processes.

*Updated : June 20, 2023*

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# 1. PURPOSE, PRINCIPLES AND ETHICAL CONDUCT PROTOCOLS

## 1.1. PURPOSE AND INTERPRETATION

The purpose of this Manual is to detail the processes, protocols and best practices for Halifax Regional Municipality's procurement activities.

The Manual, and all protocols within it, are to be read in conjunction with the Municipality's Procurement Policy (Administrative Order 2022-012-ADM, hereinafter referred to as the "Policy"). Capitalized terms have the meaning set in the Policy unless the context dictates otherwise. In the event of a conflict, the Policy shall take priority.

## 1.2. PRINCIPLES

The Municipality's public procurement processes strive to achieve the following:

- Compliance and consistency with applicable legislation, trade agreements, policies and procedures;
- Open, fair and transparent processes that afford equal access to all qualified suppliers;
- Achieving best value through the use of appropriate procurement formats and the adoption of commercially reasonable business practices;
- Incorporating the Municipality's commitment to environmental, economic, and social sustainability;
- Effective balance between accountability and efficiency; and
- Ensuring adherence to the highest standards of ethical conduct.

## 1.3. ETHICAL CONDUCT AND CONFLICTS OF INTEREST

The Municipality's procurement activities must be conducted with integrity and all individuals involved in procurement activities must act in a manner that is consistent with the Policy and in accordance with the Municipality's Code of Conduct for Municipal Employees. Unethical conduct may result in disciplinary action.

In addition to adhering to all rules and requirements set out in the Code of Conduct for Municipal Employees, no employee shall place themselves in a position of obligation to a supplier and no employee shall use the Municipality's purchasing

processes, forms and services to buy deliverables for personal use or personal benefit.

All employees participating in a procurement process (and any outside consultants or other service providers taking part on behalf of the Municipality), must declare any perceived, possible or actual, conflicts of interest to the Director of Procurement or their designate. Employees and other participants in the procurement process must consult with the Director of Procurement or their designate if they are unsure whether a particular relationship or circumstance may give rise to a conflict of interest.

Employees and other participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, giving preferential treatment, or publicly endorsing suppliers or products.

## 2. ROLE AND RESPONSIBILITIES PROTOCOL

### 2.1. PURPOSE

The purpose of this protocol is to describe the authority of Halifax Regional Council, the role of the CAO, and the responsibilities of staff related to the application of the Procurement Policy and Procurement activities.

### 2.2. REGIONAL COUNCIL

Council establishes policy and approves HRM's budget. Council delegates to HRM's employees the authority to incur expenditures from approved budgets through the procurement of deliverables in accordance with the rules and processes set out in the Policy and applicable protocols and procedures. Council provides strategic direction and guidance on major projects prior to the commencement of the procurement process. However, Council is not generally involved in the day-to-day procurement operations or individual procurement processes, except to the extent that Council approval is required under the Policy (i.e. as directed by the CAO). or in the event that an amendment to the Policy is required.

### 2.3. CHIEF ADMINISTRATIVE OFFICER (CAO)

The CAO is responsible for overseeing HRM's total operations and providing advice, support and guidance to Council and staff. In accordance with section 9 of the Policy, the CAO may authorize additional procedures and protocols not inconsistent with the Policy and may delegate their authority under the Policy to employees.

### 2.4. DIRECTOR OF PROCUREMENT & PROCUREMENT STAFF

In accordance with section 11 of the Policy, the Procurement Section is responsible for

- (a) facilitating the procurement of Goods, Services and Construction according to the Policy;
- (b) establishing, maintaining and publishing the Procurement Manual and other appropriate procurement procedures consistent with the Policy, 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 the Policy and notifying Executive Directors of non-compliance with it.

The Procurement Section is also responsible for:

- Ensuring the consistent application of the Policy and the provision of procurement services to the Departments in an efficient and diligent manner;
- Developing procurement strategies and continually analyzing business requirements and spending patterns to identify opportunities for more strategic sourcing;
- Addressing any issues or concerns that arise in respect to a procurement process and seeking guidance, support and advice from the Executive Director of Finance, the CAO and Legal Services, as appropriate; and
- Providing appropriate orientation, training and tools to employees involved in procurement activities.

Procurement staff are responsible for complying with the Policy and ensuring the Policy and all protocols and procedures are applied consistently. Procurement employees must clearly understand their obligations and responsibilities and should consult with the Director of Procurement in respect of any questions regarding their application or interpretation.

## **2.5. EXECUTIVE DIRECTORS & DEPARTMENT STAFF**

In accordance with section 10 of the Policy, each Department is responsible for:

(a) identifying and initiating procurement activities within their Department;

(b) complying with the Policy, the Procurement Manual and other procurement procedures established by the Procurement Section;

(c) facilitating, where applicable, cost sharing commitments from third parties;

- (d) procurement of Low Value Purchases;
- (e) monitoring, managing and enforcing contracts requisitioned by their Department; and
- (f) ensuring the specific objectives of contracts requisitioned by their Department are achieved.

Executive Directors are responsible for ensuring that their Department complies with the Policy, this Manual, and all other applicable procurement procedures.

Employees of all Departments are responsible for complying with the Policy, this Manual, and all other applicable procurement procedures. Departmental employees involved in procurement activities must clearly understand their obligations and responsibilities and should consult with the Procurement Section in respect of any questions regarding the application or interpretation.

To assist in the processes that are included within these responsibilities, Procurement has developed a number of process and authority related forms which can be accessed by staff on HRM's intranet (InsideHRM).

## **2.6. DELEGATED AUTHORITIES**

On June 12, 2023, the CAO recognized the following roles as "Directors" as defined by the Policy for the purposes of certain delegated authorities:

- CAO's Chief of Staff,
- Managing Director of Corporate Communications,
- Managing Director of GREA,
- Manager of the Council Support Office,
- Managing Director of the Office of Diversity & Inclusion,
- Business Unit Coordinators, and
- Other supervisory staff who report to a Director or Executive Director;

Staff occupying these roles have the authority of Director as described in the policy including the authority to approve low value purchases (up to \$10,000), the authority to approve cost sharing agreements up to \$10,000, and the authority to make or authorize expenditures or enter contracts that are exempt from the application of the Procurement Policy up to \$100,000.

The Executive Director may delegate to these staff, within their own limits, the authority to approve requisitions (including the ability to sub-delegate); approve the award of Competitive or Alternative Procurement; the authority to execute contracts on behalf of the Municipality; and the authority to exercise contractually defined options.

# 3. EXISTING RESOURCES, SUPPLIER ARRANGEMENTS, AND LOW VALUE PURCHASES PROTOCOL

## 3.1. PURPOSE

The purpose of this protocol is to explain the considerations for existing resources, existing Standing Offers and qualified suppliers' rosters and the roles and responsibilities involved in Low Value Purchases.

## 3.2. EXISTING RESOURCES AND SUPPLIER ARRANGEMENTS

Before initiating a procurement, Executive Directors and their staff must first consider the availability of existing resources, including both internal resources and existing supplier arrangements, as described below. In considering the availability of internal and external resources the following factors should be considered:

- capacity of existing staff to perform the work;
- expertise of existing staff to perform the work;
- requirement of specialized services;
- expected timeline of delivery;
- frequency for the need of the required expertise;
- requirement of an independent opinion;
- objectivity of an opinion;
- transfer of risk;
- cost of expected scope of work;
- regulated or legislated requirements of the work; and
- availability of technology in-house and long-term commitments.

## 3.3. EXISTING STANDING OFFER

Standing Offers are addressed in section 19 of the Policy.

A "Standing Offer" is 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.

A Standing Offer defines the general terms and conditions of the relationship between HRM and the Supplier and the unit prices of all items available under the Standing Offer, as well as applicable pricing terms, such as discounts and rebates, delivery charges, applicable surcharges, installation services, warranty, etc., but typically does not create contractual commitment from HRM to a defined volume of

business. The commitment to purchase against a Standing Offer is formed at the time a specific order (often referred to as a “draw”) is placed through the issuance of a purchase order. Standing offers are created by Procurement for standardized deliverables to be purchased by all Departments, where the requirements for deliverables are recurring and predictable over an extended period of time, the requirements are standard and clearly defined at the time of establishment of the Standing Offer, and it is possible to fix pricing for the deliverables for the duration of the Standing Offer.

It is the Department’s responsibility to determine if a Standing Offer for the required deliverables has already been established before making a purchase. When a Standing Offer is available, its use is mandatory for all Departments. To purchase from the Standing Offer, a purchase order referring to the Standing Offer details should be created by Procurement and sent to the supplier.

Where a Department cannot use a Standing Offer due to circumstances beyond HRM’s control, such as unacceptable lead time, unavailable goods or services for urgent requirements, lack of acceptable alternatives from the same supplier, etc., the Department may make a low value purchase or engage Procurement to meet the urgent need.

### **3.4. EXISTING QUALIFIED SUPPLIER ROSTER**

A “Qualified Supplier Roster” (also referred to as a “Roster”) is 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. Rosters are addressed in section 17 of the Policy.

Suppliers on a Roster list must have taken part in, and successfully met, the requirements of a Request for Supplier Qualifications (RFSQ) or other similar prequalification process. Such suppliers are pre-qualified to perform discrete work assignments involving the delivery of a particular type of deliverables. Further information on Rosters is set out in the Qualified Supplier Rosters Protocol.

It is the responsibility of the Department to determine if a Roster for the required deliverables has already been established before making a purchase. When a Roster has been established, the Department must purchase the deliverables through a Roster Competition in accordance with the Qualified Supplier Rosters Protocol unless another strategy has been approved by Procurement.

### **3.5. LOW VALUE PURCHASES**

Low Value Purchases are purchases of goods, services or construction valued at less than \$10,000 (including tax). Low Value Purchases are addressed in section 20 of the Policy.

Although purchase orders are issued by Procurement for all purchases of goods, services and construction, Departments may make Low Value Purchases without the

involvement of Procurement provided that the required deliverables are not covered by an existing Standing Offer or Qualified Supplier Roster.

It is the responsibility of the Department to determine if there is an existing Standing Offer or Qualified Supplier Roster for the required deliverables before making a purchase. When available, the deliverables must be purchased in accordance with the terms of the Standing Offer or in accordance with the Qualified Supplier Roster Protocol.

If a Department anticipates making multiple Low Value Purchases of the same deliverables and the total value of those purchases may exceed \$10,000, the Department must contact the Procurement Section to discuss the possibility of setting up a Standing Offer or Qualified Supplier Roster.

The Executive Director of each Department is responsible and accountable for Low Value Purchases and must ensure that they are made in accordance with this protocol..

Low Value Purchases under \$1,000 may be made using petty cash, a corporate purchasing card or through the issuance of a purchase order. Each Executive Director or Director may authorize specific individuals within their department to make purchases under \$1,000 via p-card or petty cash and may assign specific spending authority limits

For Low Value Purchases over \$1,000 but under \$10,000, the Department must invite two or more potential suppliers to quote for the deliverables (at least one of which must be a diverse or social enterprise supplier if one is known to exist). Departments are encouraged to obtain multiple competitive quotes to ensure they are obtaining Best Value. Quotes for Low Value Purchases under \$10,000 may be solicited by contacting the potential supplier(s) by telephone or email, but the supplier(s) must provide the quote in writing by email.

Documentation of Low Value Purchases should be sent to the applicable Procurement Support Representative or Financial Support Representative and be accompanied by the successful bid, unsuccessful bids and/or evidence that more than one potential supplier was invited to bid.

When issuing a purchase order, HRM's standard Purchase Order Terms and Conditions for goods and services should be referenced. Procurement will issue the purchase order.

The Procurement Section is available to assist Departments with Low Value Purchases and Departments are encouraged to consult with Procurement if they have any questions or concerns about the process and requirements described in this protocol.

### **3.6. BUYING GROUPS**

Buying Groups are addressed in section 18 of the Policy.

"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.

Buying groups that specialize in group purchasing are often known as group purchasing organizations (GPOs) or group purchasing collectives. Generally, these GPOs can provide

common business essentials such as: stationery supplies, vehicle purchases, healthcare, computer equipment and hardware, consumables, and various other goods, services, and sundries.

Taking advantage of Buying Groups relieves the Municipality from initiating its own Procurement and may result in lower cost for the Goods and Services or lower shipping costs. However, there are also possible disadvantages to consider. Buying groups aren't likely to work with all suppliers, so the Municipality may lose the opportunity to work with local business, small to medium size business and social enterprises. Despite the buying groups attempts to provide access to opportunities via posting their invitations to bid, the requirements of a large group of entities will often preclude certain suppliers from bidding. Control over specifications, including the quality of Goods and Services may pose a challenge since the Buying Group defines the minimum requirements for all entities in the group.

Buying Groups can be used to create a Standing Offer for use by Departments if Trade Agreement obligations are met. This includes requirements that the buying group publish a notice for each procurement listing the participating procuring entities and outlining the potential for other procuring entities to participate in the procurement after the procurement instrument has been put in place and the requirement that the Municipality publish notice of its participation with the buying group at least annually on the tender website designated by the Province of Nova Scotia. That notice shall direct potential suppliers to the buying group tender notices website if it is different from the Municipality's normal tendering website.

In addition to the process rules above, when considering adopting a Standing Offer formed by a Buying Group, Procurement must be confident that the goods and services being offered represent best value to the Municipality.

When a buying group procures a Standing Offer with a supplier, the arrangement exists only between the originating entity (the buying group organization) and the supplier. A separate contract typically must be negotiated between HRM and the supplier

The duration of the Standing Offer created by HRM as a result of a buying group must not exceed term negotiated between the supplier and the buying group organization.

### 3.7. PIGGYBACKING

A “Piggyback Contract”, or “Piggybacking”, is the post-award use of a contractual document/process that allows a Public Sector Entity that was not contemplated in the original procurement (i.e. not specifically named and usage/requirements not included) to purchase the same supplies/equipment/services through that original document/process. Occasionally, HRM will piggyback on goods and/or services originally procured by the Province of Nova Scotia.

The draft guidelines attached below have been developed by the Nova Scotia Procurement Advisory Group to guide Public Sector entities in the use of Piggybacking opportunities.

When assessing a Piggybacking procurement opportunity, Procurement Section staff should consider these guidelines, confer with colleagues and management and seek legal advice where appropriate.

## Public Sector Entity Piggyback Guidelines

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### *PURPOSE*

The purpose of this guideline is to provide assistance and direction to both the Public Sector Entity (“PSE”) that initially ran the solicitation (“Originating PSE”) and the requesting PSE (“Piggybacking PSE”) for entering into piggyback contracts with the awarded vendor (“Supplier”).

### *INTERPRETATION*

This guideline should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this guideline are as defined in the Nova Scotia Sustainable Procurement Policy.

Where terms conflict between this guideline and the PSE’s Procurement policy, the PSE’s Procurement policy shall supersede.

### *DEFINITION*

A piggyback contract or piggybacking (“Piggyback Contract”) is the post-award use of a contractual document or procurement process (“Enabling Contract/Process”) that allows a PSE that was not contemplated in the Enabling Contract/Process (i.e. not specifically named and usage/requirements not included) to enter into a new contract to purchase the same goods and/or services as if they were a party to the Enabling Contract/Process.

### *WHEN NOT TO ENTER INTO A PIGGYBACK*

- A Piggyback is not a joint procurement. Refer to the Nova Scotia Sustainable Procurement Policy for further information on joint procurement.
- The Piggyback Contract that the Piggybacking PSE is adopting permits it to buy only the goods and/or services listed in the Enabling Contract/Process. For clarity, a separate Piggyback Contract must still be entered into for the specific goods and/or services. It is not sufficient that there be an existing or previous contract with the same company.
- Piggyback Contract cannot exceed the period of contract, including extension periods (“Term”) of the Enabling Contract/Process.
- Piggyback Contract is not recommended for a firm or fixed price tenders (e.g. Request for Construction).
- Where piggyback clause does not apply to the Piggybacking PSE.
- When the Enabling Contract/Process does not have a piggyback clause.

### *WHEN AND WHY TO ENTER INTO A PIGGYBACK*

Refer to the following prompts when considering entering into a Piggyback Contract. Contact your PSE’s legal advisor should your PSE wish to proceed where it is not recommended to proceed below.



<ul style="list-style-type: none"> <li>Has the Piggybacking PSE obtained a copy of the contract and the solicitation document, including the specifications from either the Originating PSE or Supplier?</li> </ul>	<p>If yes, acceptable to proceed.</p> <p>If no, contact Originating PSE to obtain a copy before moving forward.</p>
<ul style="list-style-type: none"> <li>Did the Originating PSE competitively solicit the contract? (e.g. not an Alternative Procurement)</li> </ul>	<p>If yes, acceptable to proceed.</p> <p>If no, contact your legal advisor to discuss.</p>
<ul style="list-style-type: none"> <li>Does the Enabling Contract/Process contain a specific “piggyback” clause?</li> </ul>	<p>If yes, acceptable to proceed. If no, unable to proceed.</p>
<ul style="list-style-type: none"> <li>Does the Enabling Contract/Process include relevant factors, including but not limited to: quantity and scope of work, match the parameters of your proposed requirements?</li> </ul>	<p>If yes, acceptable to proceed. If no, unable to proceed.</p>
<ul style="list-style-type: none"> <li>If this piggybacking action represents an option in the Enabling Contract/Process, is the option provision still valid? That is, is the contract current and active, whether in its Enabling Contract/Process initial term or extended-term.</li> </ul>	<p>If yes, acceptable to proceed. If no, unable to proceed.</p>
<ul style="list-style-type: none"> <li>Do the Enabling Contract/Process terms comply with the Piggybacking PSE’s policies and/or applicable trade agreements?</li> </ul>	<p>If yes, acceptable to proceed.</p> <p>If no, unable to proceed.</p>
<ul style="list-style-type: none"> <li>If you require changes to the deliverables, are they “within the scope” of the Enabling Contract/Process or considered “material changes”?</li> </ul>	<p>If within scope, acceptable to proceed.</p> <p>If considered a material change, contact your legal advisor to discuss.</p>

### *ORIGINATING PUBLIC SECTOR ENTITY USAGE Procedures*

- Obtain written approval from the Supplier to release the contract documents.
- Subject to the Supplier's approval, provide to the requesting PSE the following documents:
  - The executed contract between the Supplier and Originating PSE (if applicable).
  - If not included in the agreement, a copy of the solicitation document that shows how the contract was competed.
  - Supplier's response to the solicitation (bid/proposal including pricing)
- Depending on the Originating PSE, and the solicitation, the Piggybacking PSE may be required to sign a confidentiality declaration with the Originating PSE. Further, it may be required to sign a separate confidentiality declaration with the Supplier.

### *AWARD POSTING*

- It is recommended that when an award of the Piggyback Contract exceeds trade agreement thresholds, PSE should post the award notification on the Nova Scotia Public Procurement Portal using the Public Tenders Application. Refer to Appendix A for an example of notification posting.
- Piggybacking is not considered an Alternative Procurement ("ALTP"); therefore, notices should not be posted on the ALTP portal.

### *SOLICITATION CLAUSE*

Following are examples of language currently in use by PSE in Nova Scotia. These clauses allow other PSE to Piggyback off an Enabling Contract/Process. Contact your PSE's legal advisor before adopting any of these terms and conditions.

#### **Government of Nova Scotia (Negotiated RFP Templates)**

By submitting a proposal in response to this RFP, a proponent undertakes and agrees that if successful, and following execution of an agreement with the Province, it will make the specified goods and/or services available, on substantially the same terms and conditions as those agreed to with the Province, to any public sector entity eligible to participate in this procurement process, upon request by a public sector entity seeking access to those goods and/or services, provided however, that the proponent's obligation to allow participation by other public sector entities does not extend to circumstances in which the proponent would have to make capital or operational expenditures in order to accommodate subsequent requests for goods or services by public sector entities.

The proponent may only provide the goods and services specified under this RFP to additional entities by entering into a separate contract with the new entity

("Subsequent Contract"). The proponent acknowledges and agrees that the Province will not be a party to any Subsequent Contract, nor will the Province be liable in any respect for any obligation under, or act or omission by a party to, a Subsequent Contract.

The proponent acknowledges and agrees that notwithstanding any enactment or other obligation the Province may disclose the proponent's proposal, and any agreement between the proponent and the Province, to any public sector entity eligible to participate in this procurement process, and the Province is not liable for any loss or damage to any person arising from or otherwise in relation to such disclosure.

For the purposes of this section, a public sector entity means any provincial government or provincially funded entity in Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations.

#### **Government of Nova Scotia (Contract "A" Solicitations Templates)**

By submitting a proposal in response to this RFP, a proponent irrevocably undertakes and agrees that if successful, and following execution of an agreement with the Province, it will make the specified goods and/or services available, on the same terms and conditions as those agreed to with the Province, to any public sector entity eligible to participate in this procurement process, upon request by a public sector entity seeking access to those goods and/or services, provided however, that the proponent's obligation to allow participation by other public sector entities does not extend to circumstances in which the proponent would have to make capital or operational expenditures in order to accommodate subsequent requests for goods or services by public sector entities.

The proponent may only provide the goods and services specified under this RFP to additional entities by entering into a separate contract with the new entity ("Subsequent Contract"). The proponent acknowledges and agrees that the Province will not be a party to any Subsequent Contract, nor will the Province be liable in any respect for any obligation under, or act or omission by a party to, a Subsequent Contract.

The proponent acknowledges and agrees that notwithstanding any enactment or other obligation the Province may disclose the proponent's proposal, and any agreement between the proponent and the Province, to any public sector entity eligible to participate in this procurement process, and the Province is not liable for

any loss or damage to any person arising from or otherwise in relation to such disclosure.

For the purposes of this section, a public sector entity means any provincial government or provincially funded entity in Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations.

### **Halifax Regional Municipality (All solicitation type templates)**

If requested by any other public sector entity, the successful bidder agrees to make its goods and services available to the other public sector entity upon the same pricing, terms and conditions as those provided to HRM.

The successful bidder is not obligated to extend its goods and/or services to other public sector entities if doing so would cause the bidder to make capital or operational expenditures in order to accommodate the request.

Any arrangement or agreement with another public sector entity will be solely between the successful bidder and the other public sector entity. HRM will not be a party to any such agreement, and HRM is not liable in any respect for any obligation, act or omission by a party to such agreement.

For the purposes of this section, a public sector entity means any provincial government or provincially funded entity in Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and Crown corporations, and entities defined by contract as agents of HRM.

### **Nova Scotia Community College**

In the interest of standardization of equipment and services amongst the thirteen (13) NSCC sites, throughout the province of Nova Scotia, the Proponent agrees to extend its proposal to all NSCC sites, and to all MASH sector members within the province of Nova Scotia, “as their needs require.”

This option would be subject to receipt of satisfactory equipment including product support and services, continued technological competitiveness, and maintenance of an equitable prices structure relative to other manufacturers.

## FORM OF AGREEMENT WITH SUPPLIER

Following is an example of an agreement currently in use by PSE in Nova Scotia. Contact your PSE's legal advisor before adopting any of these terms and conditions.

---

### ADOPTION OF SUPPLY AGREEMENT

Between  
[INSERT PUBLIC SECTOR ENTITY NAME] (the "PSE")  
And  
[INSERT SUPPLIER NAME] (the "Supplier")

**WHEREAS** on [insert date] the Supplier entered into an agreement with [ORIGINAL PUBLIC SECTOR ENTITY NAME] to provide [insert description of Services] (the "Supply Agreement");

**AND WHEREAS** the Supply Agreement is attached hereto as Schedule A;

**AND WHEREAS** the Supply Agreement expressly permits the PSE to enter into a similar agreement;

**AND WHEREAS** the PSE and the Supplier now wish to adopt the Supply Agreement as if they were the original parties thereto, subject to the changes set out herein; and

**NOW THEREFORE**, the PSE and the Supplier agree as follows:

1. The Supplier agrees to provide [insert description of the Services] to the PSE.
2. Subject to any modifications set out herein, the PSE and the Supplier agree to adopt and be governed by the terms and conditions of the Supply Agreement, with the PSE taking the place of [ORIGINAL PSE] and with all other necessary changes applied *mutatis mutandis*.
3. [Notwithstanding section [X] of the Supply Agreement, the PSE and the Supplier agree that  
...]
4. [Notwithstanding section [Y] of the Supply Agreement, the PSE and the Supplier agree that  
...]
5. [Notwithstanding section [Z] of the Supply Agreement, the PSE and the Supplier agree that  
...]

6. Any notice to be given under this Agreement by the PSE or the Supplier shall be in writing and delivered by hand, by facsimile transmission, email or by registered mail, to the other party at the address and to the attention of the contact individual indicated below:

PSE: [insert mailing and email or other relevant contact information]

Supplier: [insert mailing and email or other relevant contact information]

Notice shall be deemed to be duly given and received upon delivery, if delivered by hand; upon receipt of the facsimile or emailed transmission, if the transmission is received by the intended recipient prior to the recipient's close of business (and otherwise on the next business day of the recipient); or three (3) business days after posting, if sent by registered mail with a return receipt. Either party may change its address or contact for receipt of notices, provided that such party gives notice thereof in accordance with this provision and confirms the effective date of the change in such notice. This Adopting Agreement shall enure to the benefit of and be binding on the PSE and on the successors and permitted assigns of the Supplier.

7. This Adopting Agreement may be signed by the PSE and the Supplier in separate counterparts, each of which when signed and delivered, shall constitute an original and binding agreement for all purposes.
8. The Supplier and the PSE agree to execute and deliver all such further documents and instruments, and do or cause to be done all such acts and things, as either party may reasonably consider necessary to evidence the intent and meaning of this Adopting Agreement.
9. This Adopting Agreement shall be governed by and interpreted in accordance with the laws of Nova Scotia and the laws of Canada applicable therein.

*[signature page to follow.]*

*The PSE and the Supplier have executed this agreement through their authorized representatives on the date stated opposite each party's signature.*

**[INSERT SUPPLIER NAME]**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name: Title:

**[INSERT PSE NAME]**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name: Title:

## APPENDIX A - PUBLIC TENDERS APPLICATION POSTING EXAMPLE

### Tender Details

Tender ID	CW555
Description	Notice of Participation - Fitness Equipment (This posting IS NOT a tender/RFP opportunity)
Tender Docs Location	To access tender documents see below.
Tender Document	
Addendum Document	
Department / Agency Name	Agriculture
Closing	<b>Closing on</b> Friday, January 8, 2021 at 02:00 PM Atlantic Time.  <b>Location:</b>
Opening	<b>Opening on</b> Friday, January 8, 2021 at 02:00 PM Atlantic Time.  <b>Location:</b> same as close location
Posted	08 January 2021
Trade Agreement	Canadian Free Trade Agreement (CFTA)
Category	<b>Goods: Y   Services: N   Construction: N</b>
Pickup Fee	N/A
Addendum	N
Addendum Notes	
Contact	Geneviève Sharkey, Director, Procurement Operations, Goods, Services & Construction, genevieve.sharkey@novascotia.ca
Memorandum	Notice of participation in RFP 615278 - Playground and Outdoor Fitness Equipment. This posting IS NOT a tender/RFP opportunity.  In accordance with RFP 615274, Public Sector Entities may participate on the same terms and conditions as those agreed to with the originating entity.
Awarded Date	08 January 2021
Awarded Amount	\$0.00
Awarded Vendor	Spartan Fitness
Award Memo	



## **4. QUALIFIED SUPPLIER ROSTERS PROTOCOL**

### **4.1. ESTABLISHING A QUALIFIED SUPPLIER ROSTER**

In situations where a Department or multiple Departments require the same type of good or service on a regular or recurring basis, it may not be efficient or cost effective to initiate a new open procurement process each time that particular good or service is required. In such cases, a Qualified Supplier Roster of pre-qualified suppliers may be established.

Procurement is responsible for establishing Qualified Supplier Rosters in cooperation with Departments. A qualification process is conducted through public posting of a Request for Supplier Qualifications (RFSQ), and suppliers are pre-screened based on the qualification criteria and evaluation process set out in the RFSQ.

If the RFSQ requires evaluation of qualifications rather than simply a response, the evaluation process must specify the minimum threshold or ranking and conditions that must be met in order for a supplier to be considered qualified. Due to the variability of requirements, Qualified Supplier Rosters are not expected to provide firm pricing for all items in scope. In some cases, the RFSQ may include a requirement to provide “ceiling prices”, maximum hourly rates or unit prices which the supplier agrees not to exceed when submitting a bid in response to a Roster Competition during the term of the Qualified Supplier Roster or for a shorter specified period of time.

The qualified suppliers meeting all the requirements and conditions in the RFSQ process will be invited to enter into a Master Framework Agreement. Procurement is responsible for entering into and managing Master Framework Agreements on behalf of the Municipality.

The Master Framework Agreement will set out the general terms and conditions that will govern any future work assignments. Upon execution of the Master Framework Agreement, the qualified supplier will be included on the Qualified Supplier Roster. As the need for the deliverables arises, the Department will select one or more of the suppliers on the Roster to perform the work assignment through a Roster Competition.

A Qualified Supplier Roster does not result in any commitment by the Municipality to purchase deliverables from the supplier. The supplier may be selected, in accordance with the Roster Competition, to provide the deliverables on a non-exclusive basis.

### **4.2. PREPARING THE RFSQ**

The solicitation document for the qualification process to establish a Qualified Supplier Roster should be prepared using the RFSQ template. The following information must be addressed in the RFSQ:

- The qualification criteria and evaluation process;
- The threshold evaluation score or ranking (if any) needed in order to be included on the Roster; and
- The term of the Qualified Supplier Roster and Master Framework Agreement.

The RFSQ must not include:

- conditions for participation that are not essential to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to provide the goods or services;
- local content or other economic benefits criteria that are designed to favour suppliers from a particular geographic location (region, territory, province or nation) or goods or services of a particular geographic location; or
- requirements that bidders have previously been awarded contracts by the Municipality or have prior experience in a particular geographic location.

The RFSQ and the resulting Master Framework Agreement should include details regarding the management of the Qualified Supplier Roster, including:

- The process by which new suppliers will be given the opportunity to qualify for inclusion on the Roster;
- The process by which suppliers may be removed from the Roster; and
- The process for conducting Roster Competitions.
- The Process by which suppliers can qualify for additional areas of work, if applicable, throughout the term of the Agreement.

### **4.3. CONDUCTING THE RFSQ PROCESS**

The RFSQ process is Competitive Procurement and should be conducted in accordance with the following:

#### **4.3.1. Procurement Notice**

Procurement is responsible for posting notice of the opportunity on the Nova Scotia Public Tenders website. Suppliers must be able to access the notice free of charge and the notice must include all normal requirements of any posting. The notice inviting interested suppliers to apply for inclusion in a Qualified Supplier Roster must include:

- procuring entity's name and address;

- contact information (phone and/or email) of contact person;
- a description of the goods or services, or categories thereof, for which the Qualified Supplier Roster may be used;
- the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity will use to verify that a supplier satisfies the conditions;
- the period of validity of the list and the means for its renewal or termination, or if the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list; and
- if the list is also going to be used for Limited Tendering under applicable Trade Agreements, an indication that the list may be used for procurement covered by the applicable Limited Tendering Sections of CFTA and CETA.

#### 4.3.2. Posting of Solicitation Document

Procurement is responsible for posting the RFSQ notice and providing access to documents via the Nova Scotia Public Tenders website. The RFSQ document(s) should be posted at the same time as the notice.

#### 4.3.3. Time Period for Bid Submission

Suppliers must be provided sufficient time to prepare and submit responses to the RFSQ.

During the term of the Qualified Supplier Roster, both the notice inviting interested suppliers to apply for inclusion in a Qualified Supplier Roster and the RFSQ document should be made continuously available and suppliers must be permitted to apply for inclusion in the Qualified Supplier Roster at any time. The same qualification requirements, evaluation process and Master Framework Agreement that were included in the original RFSQ will apply for the purpose of qualifying new suppliers for inclusion on the Qualified Supplier Roster.

At minimum, applications for qualification should be considered on a quarterly basis and suppliers must be promptly notified of the outcome. If an application is rejected, the supplier must be provided with a written explanation of the reasons for the decision. A supplier that applies for qualification and is not selected for inclusion on the Qualified Supplier Roster will not be permitted to reapply for a minimum period of one (1) year.

### 4.4. REMOVAL OF SUPPLIERS FROM A ROSTER

Suppliers that fail to perform any contracts, whether they result from a Roster Competition or a public solicitation in a satisfactory manner, as determined by the Supplier Performance Evaluation resulting in disqualification, will be removed from the Roster and will no longer be eligible to participate in Roster Competitions. In addition to poor performance, suppliers may also be removed from the Qualified Supplier Roster on grounds such as:

- (a) bankruptcy or insolvency;
- (b) false declarations;
- (c) final judgments in respect of serious crimes or other serious offences; or
- (d) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier.

If a supplier is disqualified from bidding on contracts then they must be removed from the roster and the supplier must be provided with a written explanation of the reasons for the decision.

Supplier that are removed from the Qualified Supplier Roster will not be eligible to reapply for inclusion on the Qualified Supplier Roster for the period for which they have been disqualified.

#### **4.5. ROSTER COMPETITIONS**

Suppliers on the Qualified Supplier Roster may be invited to compete for discrete work assignments during the term of the Qualified Supplier Roster. The successful supplier selected from a Roster Competition will provide the required deliverables for the price quoted in their bid in accordance with the general terms and conditions contained in the Master Framework Agreement and any specific terms and conditions included in the solicitation document used for the Roster Competition.

If the procurement value of the required goods and services associated with the work assignment is below the thresholds stated in applicable Trade Agreements and within the constraints stated in the RFSQ and Master Framework Agreement, an invitational quote process, performed by the Department may be used to solicit quotes from the suppliers on the Qualified Supplier Roster, in accordance with the Master Framework Agreement and any applicable procedures established by Procurement. A publicly posted notice is not required.

It is the responsibility of the Department to check if a Qualified Supplier Roster is already established before making a purchase. When a Qualified Supplier Roster is available, its use is mandatory for all Departments.

In some exceptional cases, the Departments may purchase the deliverables outside an established Qualified Supplier Roster. If the Department's requirement for deliverables is not satisfied by the standard specifications available on the Qualified Supplier Roster, the Department must obtain the approval of

Procurement to proceed with a purchase outside of the Qualified Supplier Roster.

When using a Qualified Supplier Roster Departments will:

- Ensure compliance with the process for conducting Roster Competitions as identified in the Request for Supplier Qualifications

- Select and invite qualified suppliers to submit bids
- Select and disclose the method that will be used in evaluating bids to all invited suppliers.
- Disclose all material information with all invited suppliers prior to the defined closing date and time as may be required.
- Evaluate all bids fairly per the method stated in the invitation to bid and maintain records of the evaluation
- Select the successful supplier based on the evaluation
- Submit a requisition, including a copy of the successful bid to Procurement
- Notify all bidders of the outcome of the invitational process

Departments are expected to utilize the Roster for Invitational Competitions on a rotational basis

If the procurement value of the required goods and services associated with the work assignment is at or above the thresholds in the applicable Trade Agreements and Limited Tendering is allowed within the published constraints of the RFSQ, Procurement may elect to publicly solicit competitive bids from any interested party through the normal competitive bid process OR may conduct a Roster Competition in accordance with the following:

- (a) The notice of intended procurement must be publicly posted on Nova Scotia Public Tenders website and must indicate that inclusion on the Qualified Supplier Roster is a condition of participation in the Roster Competition.
- (b) The time-period for submission of bids must not be less than 10 calendar days. Longer time-periods of up to 25 days should be provided whenever possible.
- (c) If a supplier that is not included on the Qualified Supplier Roster submits a request to participate in the Roster Competition and submits all required information necessary to apply for inclusion on the Qualified Supplier Roster, Procurement should consider the application if there is sufficient time to do so within the time-period allowed for the submission of bids.

# 5. PROCUREMENT PLANNING PROTOCOL

## 5.1. PURPOSE

The purpose of this protocol is to provide information required for all procurement requests in order to streamline the process and ensure the correct procurement process is followed based on the Department's requirements, complexity, pricing, procurement rules, and such.

## 5.2. ALL PROCUREMENT

### 5.2.1. Determining Requirements

The Department must clearly identify what is to be procured. Describe in detail the requirement, in order for Procurement to determine the best process and provide support to the BU through all the procurement activities. A concise initial mapping statement describing the required deliverables can be used to develop clear business requirements and detailed specifications.

### 5.2.2. Market Research

Supplier engagement can be an important part of the procurement process. Suppliers have a wealth of knowledge and insight they can offer regarding products, business solutions and market conditions. The Department should consult with Procurement before undertaking any Supplier engagement.

If the Department is uncertain about the deliverables required or where there is insufficient internal knowledge about the market, the Department could request that Procurement conduct a Request for Information (RFI) process.

### 5.2.3. Supply Arrangements for Recurring Requirement

Before initiating a procurement, Departments must consider the availability of existing supply arrangements, as described below.

If the deliverables will be required on a frequent or regularly recurring basis, and there is no existing supply arrangement, the Department must consult with Procurement about the possibility of establishing a Standing Offer or Qualified Supplier Roster.

### 5.2.4. Determining Procurement Value

The Department must accurately estimate the value of the procurement.

The procurement value means the maximum total value of the procurement over the entire duration of the contract, whether awarded to one or more suppliers,

taking into account all forms of remuneration, including:

- a) all premiums, fees, commissions and interest; and
- b) the total value of all possible options, including any options for renewal or extension of the term of the contract (e.g. a two-year contract with an option to renew for an additional one-year period) and any options to purchase additional deliverables (e.g. the contract is for the initial purchase of two pieces of equipment with an option to purchase up to an additional four pieces of equipment during the term of the contract) or any potential add-ons or upgrades that may be provided under the contract.
- c) The total value must include all costs to the Municipality for all goods and services to be supplied under the contract(s), including, if applicable, delivery, installation, training, operation, maintenance, replacement and disposal, but excluding applicable sales taxes.
- d) If multiple contracts are entered into for the same deliverables based on a single solicitation, the procurement value is the total value of all of the contracts for the same deliverables entered into on an annual basis.

In estimating the procurement value, Departments are strongly encouraged to err on the side of caution. For example, if it is foreseeable that all bids may come in over the applicable trade agreement thresholds Competitive Procurement should be used. Failure to accurately estimate the procurement value may result in situations where an inappropriate procurement method is used, potentially resulting in the need to cancel the procurement process and significant delay in the acquisition of the required deliverables.

If the Department is unsure how to determine the value of a particular procurement, they must consult with Procurement. Subdividing, splitting or otherwise structuring procurement requirements or contracts in order to reduce the value of the procurement or in any way circumvent the requirements or intent of the Policy is strictly prohibited. It is deemed unethical conduct and, at the discretion of the Director of Procurement in consultation with the Executive Director of the Department making the purchase, may result in revocation of delegated approval authority.

#### 5.2.5. Requisitions

A Requisition for Goods and Services is, subject to section 12 of the Policy, required prior to initiating any procurement project.

Requisitions for multi-year Capital projects are restricted to the list of specific multi-year Capital projects approved each year by Halifax Regional Council. Requisitions for approved multi-year projects must include a copy of the supplementary budget sheet containing the multi-year funding strategy.

Requisitions for purchases including external funding sources must include a copy of the approved and executed cost-sharing agreement.

The Requisition form can be found on the Forms Section of HRM's Intranet (InsideHRM). For purchases that are not for a discrete one-time purchase or a request for a Standing Offer, an email from the appropriate Executive Director or their delegate may replace the Requisition form. Regardless of the format of the Requisition, it must indicate the total estimated value of the planned purchase and be approved by the individual with the appropriate level of delegated authority. A list of delegated authorities is available on HRM's intranet.

### **5.3. REQUESTS FOR PROPOSALS, COMPLEX QUOTATIONS AND MAJOR TENDERS**

For complex RFQs, major tenders, multiphase solicitations and all RFPs a formal Procurement Plan is required.

#### **5.3.1. Initiation of Procurement Project Plan**

The Department Lead must obtain all necessary approvals to initiate the Procurement in accordance with their internal Department procedures (i.e. Capital Project, Business Case, Council Report, etc.) as well as including a requisition approved by the Executive Director or appropriate staff holding the Executive Director's delegated authority.

This information must be included in the Procurement Plan. A Procurement Planning template is available on HRM's intranet.

#### **5.3.2. Detailed Procurement Plan**

The Department is responsible for developing a detailed Procurement Plan, in collaboration with Procurement, for all Requests for Proposals, complex Requests for Quotations and Major Tenders involving an Alternative Procurement or Competitive Procurement. Based on the Plan, the appropriate Schedule will be selected and completed, also working with Procurement.

All Procurement Plans must be approved by both the Department Lead and the Procurement Lead. Departments are strongly encouraged to consult with, and involve, Procurement early during the development of the Procurement Plan to avoid unnecessary delays or conflicts in the review and approval process.

Based on the Procurement Plan, and the goals of the Project, a Procurement Lead will be assigned for all deliverables within the Procurement Plan, including dependent purchases made prior to, during, or after the primary purchase. For example, if a Procurement Plan where the goal is Construction related to a roadway or facility is dependent upon, or assumes, that other purchases will be



made (i.e./ Professional Services or non- Construction goods and services), a single Procurement Lead or Procurement Team will be assigned to facilitate all Procurement activity within the Plan.

#### **5.4. NON-STANDARD PROCUREMENT PROJECTS**

For all Non-Standard Procurements the Department must refer to the Alternative Procurement Protocol and comply with all documentation and approval requirements set out in the applicable Protocol and the Policy.

## 6. SOLICITATION DOCUMENT FORMAT SELECTION PROTOCOL

### 6.1. PURPOSE

The purpose of this protocol is to assist Departments in selecting the appropriate solicitation document format for their Procurement Project.

### 6.2. FORMS OF TEMPLATE SOLICITATION DOCUMENTS

Procurement maintains a series of solicitation document templates. Forms of solicitation documents include the following:

- **Invitational Request for Quotation** – This format is for use by Departments when obtaining quotes for Low Value Purchases. It may also be used for Roster Competitions when soliciting quotes from suppliers on an existing Qualified Supplier Roster.
- **Request for Quotation (RFQ)** – This format is for use by Procurement for the procurement of standard goods, services or construction based on lowest price or best value (or highest scoring) and standardized contract terms that will not require negotiation.
- **Request for Tender (RFT)** – This format is for use in Competitive Procurement or Multiphase Competitive Procurement for the procurement of more complex goods or construction where there is a need for legally binding, irrevocable bids, supported by bid security, and price is the primary (but not necessarily the only) consideration. This format must include well-defined specifications, requirements and contract terms and conditions, as post-bid negotiations are not permitted.
- **Negotiable Request for Proposal (RFP)** – This format is for use in a Competitive Procurement or Multiphase Competitive Procurement for the procurement of goods, services or construction where factors other than price will be evaluated. This format must include the scope of the project being undertaken, the criteria for evaluating proposals; a general scope of work which includes the minimum tasks and mandatory technical requirements to achieve HRM goals and the timeline for the RFP and where applicable for completing the work. The RFP must also outline the bidding process, the proposed contract terms and conditions and the framework for negotiation.

Negotiable RFP formats can take either of two (2) forms:

- **Competitive Process with Negotiation RFP** – This format is used when proposals will be ranked on technical and cost factors and the top-ranked proponent will be invited to negotiate the final contract terms.

The rules of the process provide that if the negotiations with the top-ranked proponent fail or are unproductive, the Municipality can decide to then negotiate with the next-ranked proponent. This format allows for a somewhat streamlined process which may help to confirm and refine each party's understanding of final specifications or performance terms through the negotiation of the final commercial contract with the selected proponent.

- **Competitive Dialogue (BAFO) RFP** – This format is used when proposals will be ranked on technical and cost factors to create a short-list of proponents that will be invited to engage in discussions with the Municipality prior to submitting a best and final offer (BAFO) for further evaluation and final ranking. The concurrent negotiation format may allow a more flexible process to encourage innovative and creative proposals and may be used where the nature of the project or expected nature of the proposals allows a variety of potential approaches and solutions that the Municipality might consider. Confidential meetings with short-listed proponents are used to refine the requirements prior to the submission of BAFOs and final ranking and selection of bidders. After evaluation of the BAFO, the Municipality may opt to take a rank and run approach to the negotiation of commercial terms and conditions or may continue to negotiate with two or more qualified proponents concurrently.

During an RFP process, the Procurement Lead will form a negotiating committee comprised of Departmental staff, subject matter experts (as required), and Legal Services. The Procurement Lead's role is to maintain the rules of the RFP process, be the sole contact for correspondence between HRM and the proponent, arrange and attend all confidential meetings and conferences, ensure that accurate notes or minutes are maintained, engage Legal Services at the appropriate phases of the negotiation and provide Procurement risk advice to the negotiating committee. It is the Department's responsibility to negotiate in good faith with the proponent to reach agreement on final commercial terms and conditions, changes or refinement of goods and/or services and/or fees, and where applicable Statements of Work. Considering advice provided by Legal Services and Procurement, it is the Department's responsibility to satisfactorily conclude the dialogue and negotiation process by either recommending execution of a contract to the appropriate level of Authority or instructing Procurement to cease dialogue with the proponent.

- **Request for Supplier Qualifications (RFSQ) – Prequalification** – This format is used to prequalify suppliers in the first stage of a two-stage Competitive Procurement. Bidders who meet the requirements of the RFSQ are eligible to participate in the second stage procurement process and are invited to respond to a subsequent solicitation document.
- **Request for Supplier Qualifications (RFSQ) – Roster Framework** –

This format is

used to prequalify suppliers that will be invited to compete in multiple second stage procurement processes for the same type of deliverables. Those suppliers that qualify in the first stage of the process will be invited to enter into Master Framework Agreements that will govern any future work assignments awarded to them.

### **6.3. SELECTION FACTORS**

Key factors to consider in choosing the appropriate solicitation document format include:

- Value and complexity of the purchase.
- Whether bid security is required. Irrevocable bids and bid security should only be required where there are legitimate business reasons for doing so.
- Whether bidder responses may inform the final specifications or performance terms, and whether the final contract will need to be negotiated with the top- ranked bidder.

The RFQ, and RFT formats require bidders to submit irrevocable bids and give rise to a legally binding procurement contract called “Contract A”. Bids are considered irrevocable where the solicitation document requires that bidders be bound to their bid prices or that bids remain open for acceptance for a fixed period of time. All terms of the purchase contract must be included in the RFQ, or RFT and cannot be negotiated or amended after the closing deadline prior to contract award. In a no- negotiable process both the Municipality and the supplier are bound to not only the solicitation terms but also terms of the contract as published with the solicitation and without any modification. In consideration of this, all employees involved in the procurement project should ensure that they fully understand the Municipality’s legal obligations when utilizing these formats.

### **6.4. SELECTION TOOLS**

Use the Format Checklist to confirm that all requirements for the selected format apply to your procurement project. If you cannot check off all items listed below the

selected format, consult with Procurement for additional guidance and assistance in selecting the appropriate format.

## **6.5. MARKET RESEARCH**

In addition to the various forms of solicitation documents used to conduct a procurement process, Procurement maintains a Request for Information (RFI) template for the purpose of soliciting information about deliverables and/or expressions of interest from suppliers. This format is used to conduct a structured and transparent market research and information gathering process to obtain information from potential suppliers regarding the types of good and services available to meet the Department's needs and to assess the interest in the marketplace in providing the deliverables to the Department. This format is not intended to result directly in the procurement of deliverables, but rather to inform a future procurement, and must not be used to pre-qualify bidders or restrict participation in a future competitive procurement process.

## **6.6. ALTERNATIVE FORMS OF PROCUREMENT**

If a Department is considering an alternative form of procurement or a solicitation document not provided in this protocol, a meeting should be set up with Procurement during the initial planning and budgeting stage to discuss options.

## **Procurement Format Checklist (Example)**

### **Invitational RFQ**

- You are obtaining quotes for Low Value Purchases in accordance with the Low Value Purchase Protocol or you are conducting a Roster Competition by inviting suppliers on an existing Qualified Supplier Roster to submit quotes in accordance with the Qualified Supplier Roster Protocol.
- The contract requirements and performance terms and conditions will be incorporated into the solicitation document to allow the finalization of the contract with the successful bidder without, or with only, minor negotiations.
- You will select either the lowest bidder meeting mandatory requirements, or the highest scoring bidder based on a relatively simple evaluation of price and non-price factors.

### **Open RFQ**

- You are buying simple goods, services or construction through an Invitational Competition or an Open Competition.
- Irrevocable bids are not required.
- The business requirements and technical specifications can be clearly defined in advance and incorporated into the solicitation document.
- The contract requirements and performance terms and conditions are relatively straightforward and can be incorporated into the solicitation document to permit the finalization of the contract with the successful bidder without, or with only, minor negotiations.
- You will select either the lowest bidder meeting mandatory requirements or the highest scoring bidder based on a relatively simple evaluation of price and non-price factors.

### **RFT**

- You are buying construction through a Competitive Procurement.
- There are valid business reasons for requiring legally binding irrevocable bids, with or without bid security.
- You have straightforward eligibility requirements that can be determined on a pass/fail basis and will select the bidder that meets the requirements and submits the lowest price.
- All of the business requirements and technical specifications can be clearly defined in advance and incorporated into the solicitation document.
- All of the contract requirements and performance terms and conditions can be clearly defined in advance and incorporated into the solicitation document to permit the

finalization of the contract with the successful bidder without negotiations.

### **Negotiable RFP**

- You are buying goods, services or complex construction projects through an Open Competition.
- Irrevocable bids are not required.
- Detailed, innovative or creative proposals are desired.
- You will evaluate both price and non-price factors and will rank proposals based on highest score.
- You may need to adapt the final specifications and/or performance terms based on the successful proposal.
- There may be a need to negotiate some terms of the final contract to ensure that they are appropriately tailored to the proponent's proposed solution.
- A variety of different approaches and solutions could meet the project requirements and the detailed scope of work and specifications may vary depending on the proposed solution.
- You would like to have an opportunity to engage in discussions with a short-list of high-scoring proponents to consider and better understand the various approaches and solutions that they have proposed and to ensure that the proponents fully understand your needs and requirements.
- You want to allow the short-listed proponents to develop and refine their proposed solutions and pricing proposals after those discussions through the submission of a best and final offer (BAFO).
- Based on the evaluation of BAFOs, you will invite the top-ranked proponent to negotiate and finalize the contract.

### **Request for Supplier Qualifications (RFSQ) – Prequalification**

- You are buying goods, services or construction through a two-stage Open Competition.
- You want to ensure that potential bidders are sufficiently competent, qualified and experienced to undertake and successfully complete the project prior to inviting them to bid on the detailed requirements and specifications of the project.
- You expect that a large number of potential suppliers may want to compete for the contract, and you want to narrow the field prior to soliciting bids.
- You will set a limit on the number of eligible bidders or a minimum threshold score that must be achieved before a potential supplier will be considered eligible to participate in the second stage competition.

## **Request for Supplier Qualifications (RFSQ) – Roster Framework**

- You require the same type of goods, services or construction on a regular and recurring basis over a period of time.
- You want to be able to quickly and efficiently obtain quotes from qualified suppliers that are able to provide the required goods, services or construction in accordance with established and agreed upon general contract terms and conditions.



# 7. SOLICITATION DRAFTING PROTOCOL

## 7.1. PURPOSE

The purpose of this protocol is to set out the requirements and expectations when drafting any solicitation document.

## 7.2. DESCRIBING THE REQUIREMENTS AND SPECIFICATIONS

It is essential that the business requirements and specifications in a solicitation document be clear and comprehensive as they are the “blueprint” that bidders will use to develop proposals and determine pricing.

The subject-matter experts from the relevant Department(s) prepare the technical specifications and business requirements for inclusion in the solicitation document. In the preparation of any technical specification for a specific procurement, advice must not be looked for or accepted from a potential supplier or any person that may have a commercial interest in the procurement. All technical specifications must be drafted in accordance with the requirements of Article 509 of the Canadian Free Trade Agreement.

The format of the solicitation document will dictate the level of specificity that is required for requirements and specifications.

- If price is the only factor being evaluated, then the specifications and all requirements that inform price must be fully disclosed in detail in order to solicit responsive pricing.
- If the requirements cannot be clearly defined before the solicitation document is issued (i.e. proponents will be proposing creative solutions or proponent specifications will be evaluated during the Competitive Procurement), and the selected format contemplates negotiation of the final contract, then the specifications can be drafted with less specificity.
- Irrespective of the procurement vehicle chosen, the requirements should describe the tasks that the successful bidder will be expected to complete during the term of the contract. This applies even where the Competitive Procurement is proceeding by way of a Negotiable RFP. There are different approaches to describing the tasks and effort required, for example:
  - A “performance-based” statement of work will describe the requirements in terms of the required results rather than the methods for performing the work. In this case, bidders will be invited to propose their own approach and methodology and make their own determination of what resources, roles and activities will be required to provide the deliverables and achieve the required results.

- A “level of effort” statement of work will identify all the tasks that must be performed and the hours to be spent on each task. The statement of work must identify if specific resources or categories of resources will be required to perform the identified tasks.
- A detailed or “prescriptive” statement of work will describe how the work must be accomplished, including precise measurements, tolerances, materials, quality control requirements, etc.

Irrespective of the procurement approach, it is important that:

- the deliverables are clearly identified, including the timelines and location for delivery;
- reporting and communication requirements are identified, including any requirements for progress or status reports; and
- expectations with respect to the outcome of the project are clearly described, including performance standards or quality assurance requirements.

Departments should review the need for contract performance security, if any, with Procurement.

Specifications for goods may include any or all the following:

- physical characteristics;
- functional, performance or expected results characteristics;
- quality characteristics defined by recognized, third-party standards bodies; and/or
- intended use descriptors such as consumer grade, industrial grade, medical or laboratory grade, or suitable for use under extreme conditions.

Specifications must not be written in a way that unduly restricts suppliers from bidding, and should encourage open, fair and transparent competition. Unless proven through a formal standard-setting exercise as prescribed by Procurement, all specifications must be generic and non-branded. Where there is no other way to describe a specification, trademarks or brands may be employed by way of reference however the solicitation must will indicate that HRM will consider bids of equivalent goods or services that demonstrably fulfil the requirement of the procurement by including words such as “or equivalent” in the solicitation documentation.

### **7.3. SOCIAL VALUE REQUIREMENTS**

In accordance with section 21 of the Policy, Departments must, in accordance with HRM's Social Value Framework, include evaluation criteria and/or contract requirements that aim to

achieve social value or social impacts in all solicitations. Unless it is determined that it is not appropriate or practical, all procurement opportunities with estimated values of \$1,250,000 or greater shall include evaluation criteria and/or contract requirements that aim to achieve social impacts or social value.

#### **7.4. MATERIAL DISCLOSURES**

To solicit competitive and responsive pricing during a Competitive Process, it is essential that bidders know all material information relating to the Procurement Project.

The Department is responsible to know what information should be disclosed in the material disclosures section of the solicitation document. The material disclosures section should be reviewed by the Department's subject area experts for every Procurement Project since failure to do so could expose the Municipality to legal, financial and reputational risk.

Material disclosures include information such as:

- Reports relating to the Procurement Project, including engineering, consulting, environmental or site reports;
- Unusual conditions that may affect price (e.g. soil conditions, delivery restrictions, timing requirements or restrictions);
- Contractual performance terms;
- Indemnity, performance security and insurance requirements; and
- Specific processes or procedures expected of the successful bidder that are outside standard industry practice.

#### **7.5. SELECTING THE APPROPRIATE PRICING STRUCTURE**

Below is a list of some of the most common pricing structures and the factors that should be considered when you are deciding which one is right for your Procurement Project:

**Lump Sum** (also referred to as "flat fee", "fixed-firm price") – The bidder submits a total price to provide the deliverables, which is not subject to adjustment after the contract is awarded. This model should only be used where all specifications are known in advance, all conditions affecting price are known, the terms of the contract are clear, and all of that information is disclosed in the solicitation document.

**Unit Prices** – The bidder submits a per item price for the deliverables and that unit price is then multiplied by the required quantity. Like the lump sum pricing structure, this pricing structure requires exact specifications for the deliverables required. To get the most competitive pricing and meet disclosure obligations, it is important to ensure that historical or accurately estimated volumes of the required deliverables are disclosed in the solicitation document. All unit prices must be set out with clear metrics/units of measure in the solicitation document (e.g. hourly rates, price per unit or per kilogram).

**Lump Sum or Unit Prices with Price Adjustments** – Where an industry is subject to potential increases in pricing for products or labour, but a firm estimate on pricing is needed, the lump sum or unit price model can be used in conjunction with a pre-determined price adjustment. To be defensible, the price adjustment should be tied to objective criteria in the marketplace or subject to an objective and predetermined formula. For example, a contract for operational services may include an adjustment formula for CPI or wage increases or a purchase that relies heavily on “commodity” pricing (steel, etc.) or foreign exchange rates may include a formula or method for adjustment based on the Dow prices or Bank of Canada adjustments.

**Time and Materials** – This pricing structure is used to solicit competitive pricing when it cannot be estimated in advance how much time or materials will be required to complete the project. This pricing structure allows some flexibility in pricing. However, to avoid costly budget overruns, this pricing model must include clearly described deliverables and requires careful project management to ensure efficient use of resources. The time and materials pricing components should each have clear metrics/units of measure (e.g. hourly or per diem rates, set pricing for needed materials). This pricing model can also be used for longer-term service contracts where a service or good is needed on an as-needed basis. When a time and materials pricing structure is used for these types of contracts, the term of the contract must be set out in the solicitation document. If options to extend the contract are included, any price increase for the extension terms must either be set out clearly in the solicitation document or be subject to an agreed-upon formula (e.g. indexed to inflation).

**Time and Materials with Upset Limit** – A time and materials pricing structure, as described above, can be used in combination with a requirement that bidders set an “upset limit” that is a total cost that will not be exceeded for the specified scope of work. For example, the pricing could be based on an hourly rate that will be charged for actual time spent with a total dollar value that will not be exceeded for the completion of the project.

**License Fees** – Common in the software industry, this pricing structure involves a set license fee tied to specific rights of use (e.g. number of users, number of computers on which software can be installed).

**Budget-Based Bidding** – A less common and not generally accepted form of pricing structure for use when there is a set amount of money budgeted for

a project and the Department wishes to take a “what can we get for the budget?” approach. The total budget is shown in the solicitation document and bidders propose solutions that provide the most deliverables they can within the set budget amount. This pricing structure can be a useful method where there is concern that the scope of the project may otherwise result in bids that exceed the available budget but should not be used unless no other pricing structure can be used as this structure rarely achieves best value

Life Cycle Cost (“LCC”) – This pricing structure is an analysis that considers the initial purchase price, warranty and duration of useful life, shipping, conversion, and installation and all reasonable operating costs such as fuel/energy use, water use, routine maintenance, consumable supplies, parts and repairs, etc. The solicitation document must describe the method that will be used to calculate the LCC and specify the information that must be submitted by the bidder for the purposes of the LCC analysis. Typical elements of an LCC analysis include:

- Purchase price
- Life span of products
- Transportation and handling
- Installation and associated costs
- Staff training
- Operation and supplies (including any costs associated with disposal of waste/spent supplies)
- Energy and fuel costs
- Maintenance and repairs
- End of Life Disposal costs

The details of a Procurement Project may require another type of pricing structure. When the appropriate choice of pricing structure is not clear, employees should consult Procurement for guidance and other possible options.

## 7.6. EVALUATION METHODOLOGY DEVELOPMENT

The Municipality is committed to the use of a Best Value approach in its procurement practices. A Best Value approach means that the Municipality will structure and conduct procurements in a fashion which allows for consideration of factors beyond lowest price in determining which Bid provides the greatest overall benefit to the Municipality. While price is still a fundamental part of any procurement, the Department is encouraged to consider other applicable factors in developing the evaluation methodology.

### 7.6.1. General Principles

To run a defensible Competitive Procurement, the Municipality must fully disclose in the solicitation document the evaluation methodology that will be used to determine the successful bidder. Failure to fully disclose the evaluation

methodology, including all factors to be considered in determining the successful bidder, can constitute hidden criteria that could expose the Municipality to legal, financial and reputational risk.

All eligibility or threshold criteria (also referred to as “mandatory requirements”) must be fully disclosed and be capable of review upon submission of a bid. Mandatory requirements should be kept to a minimum and should only be used for those eligibility requirements that are absolutely essential to the Procurement Project. If a requirement is something that the successful supplier must do if awarded the contract, then that requirement should be included as a performance term in the requirements for deliverables section or the contract and should not be used as a mandatory requirement.

If a requirement is something that needs to be confirmed prior to the award of the contract but is not absolutely essential to the evaluation, then that requirement should be included as a pre-condition of award.

#### 7.6.2. Basic Methodologies

There are two basic evaluation methodologies:

- Low price; and
- Evaluated criteria where price and specified qualitative factors are allocated a certain weighting (also referred to as “high score”).

#### 7.6.3. Low price evaluations

When the bids are being evaluated only on price, this must be clearly set out in the solicitation document. If a Department wants to select the preferred bidder based on lowest price, while also considering other qualitative factors such as previous experience, then it should consult with Procurement about using a different format or issuing an RFSQ to prequalify bidders.

The method for determining the low price must be disclosed. Where the pricing structure is lump sum, then the lowest price may be obvious, but if multiple unit prices are being solicited, then the formula for determining the low price for the purposes of evaluation must be set out in the solicitation document.

#### 7.6.4. Evaluated criteria (high score) evaluations

When the evaluation criteria include price and non-price factors, the relative weighting for each category of evaluation (e.g. price, quality, delivery time, experience, etc.) must be disclosed in the solicitation document.

When an evaluation category includes several different factors that will be evaluated and scored separately, the sub-weightings for each category should also be disclosed.

Details of the evaluation criteria that will be used to evaluate the different rated

categories also need to be disclosed.

When interviews or presentations are requested, the weight, value and impact on the evaluation and selection process must be set out in the solicitation document. Interviews should only be considered as part of the evaluation and selection process after consultation with Procurement.

When price and non-price factors are both being evaluated, the method for evaluating price must be disclosed. The scores for qualitative factors and the score for price are combined and bidders are ranked based on highest total score.

## **7.7. EVALUATION IN RFSQ FOR PREQUALIFICATION PROCESS**

When using an RFSQ as part of a two-stage Competitive Procurement, only qualitative factors should be evaluated at the RFSQ stage. The solicitation document must disclose the basis on which bidders will be considered eligible to proceed to the subsequent stage of the procurement process. For example, eligibility could be determined by obtaining a threshold score (e.g. bidders with a score of 75% or greater will be prequalified) or by being ranked within the specified number of top-scoring bidders (e.g. the top 3 bidders will be prequalified) or by a simple qualification of all bidders who meet mandatory requirements.

## **7.8. INTEGRATION OF COMPONENTS**

All of the components of the solicitation document need to work together properly. This requires integration throughout the document. The evaluation criteria and the pricing structure must align with the requirements, and the form of agreement must be properly tailored to the requirements and align with the pricing structure.

## **7.9. VERSION CONTROL – REVIEWING AND REVISING**

When a solicitation document needs to be reviewed and edited by multiple stakeholders, the editing process must be well coordinated in order to maintain proper version control. Unless revisions are carefully tracked and integrated through an organized process, the final document is likely to include gaps and inconsistencies that can undermine the certainty of terms and create legal risk. The following steps should be taken to ensure version control:

- Determine who is responsible for incorporating all comments and revisions into the draft document and preparing the final version;
- Ensure stakeholders are clear on what sections of the document they are responsible for reviewing;
- Only the person responsible for the final document should assign new version names to the document. (e.g. “RFP v. 2.0”);
- Others making electronic changes to the document should save the revised document under a new file name that retains the assigned version name and also includes their name and the date of the changes. (e.g. “v. 2.0 –

- changes by AB Jan 14”); and
- Copies of all stakeholder comments/mark-ups should be retained.



## 8. ALTERNATIVE PROCUREMENT PRACTICES PROTOCOL

### 8.1. PURPOSE

The purpose of this protocol is to describe the approval authorities, constraints and options for non-competitive Procurement.

### 8.2. GENERAL

Alternative Procurement practices must not be used to avoid competition between Suppliers or to discriminate against specific individuals or groups of Suppliers.

Alternative Procurement is addressed in section 16 of the Policy.

### 8.3. APPROVAL

To obtain authority for an Alternative Procurement the Department must complete and submit an Alternative Procurement Approval Form as found on the Forms Section of InsideHRM or an Award Report as found in Report Centre, depending on the value.

Alternative Procurements will only be permitted for the reasons described in section 16 of the Policy.

The completed Approval Form or report must be approved and signed in accordance with the authorities for Alternative Procurement approval in the Policy prior to engaging in an Alternative Procurement process. Approval will not be given if the Approval Form or report is incomplete or does not include sufficient supporting evidence. Alternative Procurement approval forms or reports should be reviewed and approved via signature by Procurement prior to being submitted to the delegated approver (Director, Manager, DCAO or CAO).

Alternative Procurement which requires a formally executed agreement must either utilize one of the Municipality's standard forms of agreement or a third party agreement which has been reviewed and approved to form by Legal Services. Negotiation, if required must be facilitated by Procurement per Section 11 of the Policy.

### 8.4. ADVANCE CONTRACT AWARD NOTICE (ACAN)

If a Department is requesting the approval of an Alternative Procurement on the basis that the required goods and services can be supplied only by a particular supplier, Procurement may require the publication of an ACAN to confirm that no

competition exists for the specified goods and services before the request can be approved.

An ACAN is a public notice indicating to the supplier community that the Municipality intends to award a contract to a pre-identified supplier, believed by the Municipality to be the only one capable of providing the required goods or services. The ACAN is intended to allow other suppliers an opportunity to signal their interest in competing for the contract by submitting a response.

An ACAN can be used only when there are sufficient grounds to believe that no competition exists. ACANs are not to be used to when it is clear that more than one supplier exists that can provide the required goods or services. An ACAN is not an alternative to conducting Competitive Procurement.

Procurement, with the cooperation of the Department, will prepare the ACAN. The Department is responsible for providing detailed information regarding the requirements for inclusion in the ACAN. Procurement will post the ACAN on The Nova Scotia Public Tenders portal for a minimum time period of 15 calendar days.

The Department, with the assistance and oversight of Procurement, will review and evaluate the submissions received in response to the ACAN. If the ACAN process confirms that there may be competition for the goods and services, a competitive bidding process is required. If a submission is rejected, Procurement will advise the supplier of the decision to reject their alternative and provide the reason for that decision.

If no acceptable alternative is received, the Department will proceed with obtaining authority for the Alternative Procurement and include the ACAN with the Approval Form when seeking the appropriate approvals.

## **8.5. CONTRACT NEGOTIATION**

Once an Alternative Procurement is authorized through the approval of a Procurement Project Plan, the Department is responsible to engage Procurement to facilitate the negotiation and finalization of the contract for the deliverables in accordance with the Policy

## **8.6. NOTICE OF AWARD**

For Alternative Procurements exceeding Trade Agreement thresholds, Procurement will, within 72 days of the contract award, publish the notice of award on the Nova Scotia Public Tenders portal. The notice must include at least the following information:

- (a) a description of the goods or services procured;
- (b) the name and address of the procuring entity;

- (c) the name and address of the successful supplier;
- (d) the date of award; and
- (e) a description of the circumstances justifying the use of an Alternative Procurement.

## 9. COST-SHARING PROTOCOL

### 9.1. COST SHARING (CONTRIBUTIONS) TO OTHER PARTIES

Contributions to parties external to HRM (i.e., Halifax Water, Nova Scotia Power, Multi-District Facility Boards, community associations, charities, not-for-profits, other public entities, private for-profit entities) for the delivery of goods, services and construction to or on behalf of the Municipality are expenditures as defined in the Halifax Regional Municipality Charter and the Procurement Policy. As such, these contributions must be made in compliance with the Policy.

When awarding and entering non-competitive agreements with external parties that result in the delivery of goods, services and construction, the award and subsequent agreement or purchase order must meet the requirements of Section 26, Prerequisites to Awarding of Contracts, including compliance with Section 16, Alternative Procurement or Appendix A – Exemptions. The applicable approval and contract signing authorities apply.

### 9.2. COST SHARING (CONTRIBUTIONS) FROM OTHER PARTIES

The authority to approve and execute cost sharing or contribution agreements on behalf of the Municipality, to receive funding or funding commitments from third parties is set out in Section 40, Approval of Cost Sharing.

The general approval authorities are set out in subsection 40(1). Council approval is required for any cost sharing or contribution agreement that requires or will result in an increase of more than \$1,000,000 in the approved project budget or multiyear capital plan. Notwithstanding the foregoing, the CAO may approve and execute all cost sharing or contribution agreements with Halifax Water for integrated projects.

All cost sharing agreements that are not in a standard form already approved by Legal Services must be reviewed and approved by Legal Services.

## 10. MULTI-YEAR CONTRACTING PROTOCOL

### 10.1. MULTI-YEAR CAPITAL PROJECTS

In compliance with the Policy, the Municipality may award certain multi-year capital projects so long as they do not require an increase to the current fiscal year budget. The following conditions apply to solicitations and awards funded by the Capital Budget in multiple fiscal years

- 10.1.1. In order to solicit for a multi-year capital contract, the project must be identified by Capital Steering Committee as a multi-year project and included in the Council approved multi-year capital plan (Section 12(b) of Policy).
- 10.1.2. If a project is in the multi-year Capital Plan but not identified as a multi-year project, the department must recommend and receive approval to tender from the Audit and Finance Committee Capital projects with funding for the upcoming fiscal year in the multi-year Capital plan (advanced tendering) may be tendered in January- of the preceding fiscal year upon approval by the Capital Steering Committee
- 10.1.3. Requisitions for multi-year projects must identify the estimated value for each year including delivery dates for each year's expenditure.
- 10.1.4. Subject to section 79A of the HRM Charter, expenditures shall not be authorized if they are not in the approved Capital Budget for the applicable fiscal year.
- 10.1.5. If projected funding for the purchase is contingent on the receipt of cost sharing from third parties, such cost sharing commitments must be confirmed in writing prior to contract award (section 26(c) of Policy).
- 10.1.6. A contract award must be forwarded to Council for approval if the award commits the Municipality to making capital expenditures in a future fiscal year and exceeds the amounts allocated for the project in Council's multi-year capital plan (section 28(2)(a)(i) of Policy).

### 10.2. MULTI-YEAR OPERATING AGREEMENTS

The Policy recognizes that some agreements to provide services to the Municipality may require the Municipality to make a multi-year financial commitment. This includes but is not limited to multi-year operational services contracts such as snow removal, waste collection, grass maintenance, health and benefits services, certain IT agreements for software licensing, software as a service/platform as a service agreements, leasing or maintenance of goods such as IT hardware, printing equipment and vehicles and other ongoing scheduled services. It does not include standing offers for ad-hoc or on-demand goods, services or construction.

- 10.2.1. In order to requisition for a multi-year operating expenditure, the proposed expenditure must be consistent with approved program deliverables for the Department making the purchase (section 12(3)(c)).

- 10.2.2. Requisitions for multi-year operating contracts projects must identify the estimated value for each year
- 10.2.3. Subject to section 79A of the HRM Charter, expenditures shall not be authorized if they are not in the approved Operating Budget for the applicable fiscal year.
- 10.2.4. If projected funding for the purchase is contingent on the receipt of cost sharing from third parties, such cost sharing commitments must be confirmed in writing prior to contract award (section 26(c) of Policy).
- 10.2.5. A contract award for a multi-year operating expenditure can be approved in accordance with the authorities in section 28(1) of the Policy; provided, however that an award must be forwarded to Council for approval if it exceeds either \$5,000,000, or a term of 5 years (section 28(2)(a)(ii)).

# 11. SOCIAL VALUE AND SUPPLIER CODE OF CONDUCT PROTOCOL

## 11.1. PURPOSE

The purpose of this protocol is to describe in general terms how staff should interpret the Social Value requirements of the Policy including the Supplier Code of Conduct and the Social Value Framework

## 11.2. GENERAL PRINCIPLES

To maximize social value, all Procurement Project Plans, whether formal or informal, should consider that:

- a) The Municipality has a strategic focus on Procurement that considers social value
- b) Staff should focus on procuring 'outcomes', meaning the long-term changes that services and other activities achieve for the beneficiaries;
- c) The approach to Social Value is unique in each Procurement;
- d) When planning a Procurement process, Departments will consider social value and, as appropriate, include discussions with providers, internal and external users of the services and stakeholders to assess the related and most effective approach to embedding social value in any procurement process.
- e) Every Procurement Project shall, whenever possible, include at least one Social Value outcome as part of the award;
- f) Every Procurement Project that is performed by invitation only shall include an invitation to a social enterprise or diverse supplier, if one is known to exist;
- g) Social Value priorities will be relevant and proportionate for each situation, with corresponding considerations set out as part of the specification;
- h) Procurement and Departments will report on how they have considered social value in the purchase when awarding a contract;
- i) Support for diverse enterprises, small local business, and social enterprises will be given wherever possible, including access to the Municipality's supply chain through invitation, advice of pending solicitations or as subcontractors.

## 11.3. SUPPLIER CODE OF CONDUCT AND THE SOCIAL VALUE FRAMEWORK

- a) The Supplier Code of Conduct states the minimum social values and social value requirements expected by the Municipality of all of its suppliers and includes the Living Wage requirements on specific contracts.

- b) The Social Value Framework introduces the requirements for all Departments and entities covered by the Procurement Policy to consider economic, social and environmental well-being in connection with Procurement contracts.

#### **11.4. WHY CONSIDER SOCIAL VALUE?**

- a) Considering Social Value can create maximum benefit for the community and increase service quality and can also lead to cross-departmental savings and encourage organizations to enter the market.
- b) It means greater recognition of the contribution of Social Enterprise, diversity and small to medium local businesses;
- c) It emphasizes outcomes, and can be used to build upon the community assets that our citizens share;
- d) There is value in 'how' we do things, as well as in 'what' we do and how much it costs.
- e) Including Social Value in the Municipality's procurement processes maximizes investments in a way that produce additional value for communities and citizens

#### **11.5. AN APPROACH TO SOCIAL VALUE PROCUREMENT**

##### Step 1: Consider the Opportunity

- a) Consider the relevance and proportionality of the procurement opportunity
- b) Identify if it is relevant and proportionate to include social value requirements within the procurement, taking into account factors including (but not limited to):
  - The value
  - The contract length
  - The product / service / work being procured
  - The proximity to communities of interest
  - The number of potential suppliers

##### Step 2: Identify Social Value opportunities

- a) Taking account of needs, including community characteristics, resources and assets, identify what social value opportunities could be created or realized; this could include:
  - Consultation with the current provider (where applicable)
  - Engaging with internal stakeholders, third sector organizations and/or Community Stakeholders
  - Market analysis, including assessment of how social value has been delivered in similar contracts in other areas
  - Consultation with the wider market

##### Step 3: Select an outcome or outcomes



- a) Collate, review and assess the information to identify common themes or areas that would be relevant and proportionate to the procurement.
- b) Select one or more outcomes against which social value could be delivered. It is usually advisable to limit the number of the selected outcomes e.g. to focus on one or two key outcomes.

Step 4: Build the Social Value requirement into the procurement.

- a) Decide how specific you want to be about achieving the outcomes and use this information to formulate the mandatory requirements (Tenders and RFQs) or the question(s) (RFPs) you want to include.
- b) Identify the success factors.
- c) Consider how the impact of the social value delivered will be measured both through the direct delivery of the outputs and the longer-term impact on the outcomes.
- d) How will you identify that social value is being delivered e.g. - participation levels, addressing inequalities, wider social, environmental and economic benefits?
- e) Can the reporting schedules and requirements be stipulated?
- f) Can the social value KPIs be identified?
- g) Before publishing the solicitation documents confirm that all relevant contractual information required to take into account the specific social value expectations and requirements are in place and supported by Procurement.

Step 5: Evaluate the Social Value offered in each bid

- a) The evaluation of the social value proposals will follow the format described in the solicitation documents. In a Tender or RFQ process the Social Value requirements are mandatory, fixed and non-negotiable. In an RFP process, this should take into account:
  - The value of the social value activity proposed
  - The likelihood of it being achieved
  - The resulting benefits

Step 6: Confirm contractual requirements addressed

Before finalizing and sending out the formal contract (or award of contract letter) confirm that all relevant contractual clauses / terms have been included to take into account the specific social value offer. For example.

- KPIs and performance measures
- Reporting schedule and requirements
- Remedies and termination clauses

Step 7: Monitor and measure the social value being delivered

- a) The monitoring and measurement of the Social Value commitments

- made by the supplier should be incorporated into the general performance management of the contract.
- b) Suppliers should be expected to report on the outcomes to evidence how they are achieving the social value they propose to deliver.

## 11.6. EXAMPLES OF TYPICAL CONSIDERATIONS:

Social Value may be achieved through a variety of considerations, including:

- Supplier diversity
- Workforce development
- Fair wage/living wage
- Community benefits
- Environmental benefits
- Socially responsible production
- Advanced health and safety practices

The decision of how to include Social Value considerations in any Procurement Project must be made in the context of the Procurement Document Format as decided using the Procurement Document Format Protocol.

In a Tender or RFQ process, social value considerations are typically not subjectively evaluated and are more often stated as mandatory requirements. In a Tender or RFQ process, staff may consider the following non-inclusive list of considerations that may be included in the Procurement requirements. *(Note that the examples below are not intended to be an all-inclusive nor prescriptive set of requirements to include in Procurement documents and although this protocol attempts to categorize the examples, any of the examples may be adapted and adopted to apply to any specific method of Procurement.)*

### *Request for Goods*

- A minimum of X proportion of supply chain spend shall be with local Small and Medium Enterprises, Social Enterprises or Diverse Businesses
- Reduction in energy use/carbon emissions/increased use of renewable energy.
- Reduction or reuse of waste.
- Reduction in use of hazardous substances.
- Use of environmentally certified products

### *Request for Tender/Request for Quotation*

- Workforce development e.g. work opportunities for disadvantaged people or historically underemployed communities
- A minimum of X FTE new jobs created, X of these will be in the first year of the contract

- No member of staff employed by the supplier or its sub-contractors is paid less than the Halifax living wage.
- X of hours allocated toward completion of the project, if applicable, must be delegated to apprentices working toward certification. (i.e. Apprenticeship for Architects as outlined in CALA)
- X of hours allocated toward completion of the project, if applicable, must be delegated to Engineers in Training working towards becoming a licenses/certified engineer.
- X new apprenticeships will be offered to youth (under 25) living in HRM
- X number/X percent of apprenticeship hours will be offered in the delivery of skilled trade work.
- X percentage of new jobs will be offered to people who find it difficult to access work
- A minimum of X proportion of supply chain spend shall be with local Small and Medium Enterprises, Social Enterprises or Diverse Business.
- A minimum of X amount of contract value shall be attracted into the area through inward investment - grants, private sector investment or reinvestment of profits.
- X percentage of new jobs resulting from the contract by shall be offered to youth (under 25).
- Improve the skills levels of existing staff by training x% of the workforce assigned to the services
- Investment in local culture and heritage.
- Reduction in energy use/carbon emissions/increased use of renewable energy.
- Reduction or reuse of waste.
- Reduction in use of hazardous substances.
- Use of environmentally certified products

In an RFP process or certain Requests for Supplier Qualifications, staff may take a qualitative approach to the evaluation of proposals for Social Value, assigning a part of the total score to Social Value considerations and how they would be delivered and reported on. Procurement recommends a scoring weight for Social Value criteria between 10 and 30 percent so that the Municipality's efforts make an appropriate impact on decision making. In an RFP or RFSQ process, staff may consider the following non-inclusive list of questions that may be evaluated within the scoring framework: *(Note that the examples below are not intended to be an all- inclusive nor prescriptive set of requirements to include in Procurement documents and although this protocol attempts to categorize the examples, any of the examples may be adapted and adopted to apply to any specific method of Procurement.)*

#### Request for Proposal/Request for Supplier Qualifications

- How will you support targeted recruitment and training? Please provide two examples of your approach, and previous experience of supporting targeted recruitment and training in similar services.
- Please outline how you will access local supply chains and support the

local economy?

- How will you work closely with other stakeholders to support and develop local knowledge and skills?
- Please provide evidence of how you would deliver social, economic or environmental value through the delivery of these proposed services?
- How would you create skills and training opportunities (e.g. apprenticeships or on the job training) or work experience through the delivery of this contract?
- How would you support initiatives targeting identified groups?
- How would you create employment opportunities for long-term unemployed people and/or historically underemployed communities?
- How would you create supply chain opportunities for SMEs and social enterprises and diverse suppliers?
- Please provide (maximum of x) examples of previous projects where you have engaged with a local community during the successful delivery of a project in a similarly demographic area. (ITT)
- How will you consider equality and diversity in the provision and operation of services?
- Please state clearly the additional social value offer elements that you would provide during the life of the contract (please include timescales and outcomes to be achieved).
- Please provide an example of how you have protected and improved the local environment when delivering similar services.
- Please provide evidence of how you would deliver Environmental value through the delivery of these proposed services?
- Do you ensure that any suppliers you engage with will apply appropriate environmental protection measures?
- How will your supply chain ensure ethical considerations? For example, this could include ethical sourcing practices
- Do you have a sustainability plan or policy in place?
- Demonstrate your strategy to maintain/reduce average sickness absence through an improved workplace health, wellbeing and support package, or staff turnover.
- Demonstrate how your firm contributes towards an improved local environment  
e.g. parks, green spaces, play areas and facilities.
- Demonstrate how your firm promotes social integration e.g. work opportunities for disadvantaged people or historically underemployed communities
- Employment and Workforce Development Employment Opportunities:
  - “The proposal shall include a description of the proponent’s commitment to a diverse workforce, including employment opportunities for African Canadian, Indigenous peoples, people with disabilities and/or other traditionally underrepresented groups”
  - “The proposal shall indicate the workforce opportunities if any, directly created by the Preliminary Design Project.
  - Workforce Development: The proposal shall indicate how the proponent supports workforce development, i.e. offering apprenticeships, skills training and/or other developmental support to employees and/or subcontractors including the number of people

gaining new qualifications (employees/Service Users) and the number of people gaining new skills. should these be bullets for the above point or stand alone?

## 12. BIDDER DEBRIEFING AND DISPUTES PROTOCOL

### 12.1. PURPOSE

The purpose of this protocol is to provide guidance with respect to bidder debriefings and complaints. The substance of this Protocol has been agreed to by the Nova Scotia Procurement Advisory Group.

### 12.2. PURPOSE OF A BIDDER DEBRIEFING

Bidders whose bids are rejected are entitled to request a formal debriefing from the Municipality. Debriefings are addressed in section 17 of the *Public Procurement Act*, and section 38 of the Policy.

The purpose of a debriefing is to provide a Bidder with constructive feedback about their evaluated Bid. The debriefing process is not a complaint process and should not be treated as such.

Information about Bids submitted by other Bidders must not be discussed or disclosed in the debriefing.

Debriefings are an important part of a Competitive Procurement. They provide an opportunity to:

- Recognize the efforts Bidders make in responding to Solicitation Documents.
- Provide constructive feedback and suggestions for improvements so that unsuccessful Bidders are better prepared for future opportunities, giving the Municipality, in turn, access to more qualified Bidders that are better able to compete.

### 12.3. RESPONSIBILITY FOR CONDUCTING DEBRIEFING

Best practice requires that debriefs for Competitive Procurement, where Procurement is involved, be conducted with representatives of both Procurement and at least one member of the evaluation team responsible for the Procurement Project.

In situations where it is impractical to have both a Procurement and evaluation team member representatives at the debrief (i.e. time limitations, low-value award, low complexity), the debrief may be held by the Procurement representative only. The Bidder should be advised ahead of time and should be given the option to reschedule to a time when an evaluation team member can be included, where practical. Following the debrief with the Procurement representative only, should additional clarification be required for the debrief that can only be provided through a member of the evaluation team, a subsequent session may be scheduled with additional attendees or that information may be provided through an alternative method.

The evaluation team representative should be knowledgeable in all aspects of the Bid and the evaluation process.

For Low Value Purchases where there was no Procurement Section involvement, debriefs should be conducted by two Department representatives familiar with all aspects of the Bid and the evaluation process.

#### **12.4. INITIATION AND SCHEDULING OF A DEBRIEFING**

Debriefings are only initiated at the request of a Bidder. Requests for a debriefing are directed as identified in the Solicitation Document. Bidders are expected to make their request within ten (10) business days of the notification of the outcome of the procurement process unless otherwise specified in the solicitation document. Requests for a debriefing made after this time period may be declined but are considered on a case by case basis.

Following receipt of a request for a debriefing from a Bidder, the Municipality will endeavor to:

- Provide an appointment date for the debriefing within thirty (30) days.
- Complete the debriefing no later than ninety (90) days from the request for debriefing; and
- Schedule the debriefing for no more than thirty (30) minutes.

When scheduling the debriefing, the Municipality will address the following matters with the Bidder's representative:

- Explain the purpose of the debriefing;
- Explain that the debriefing is intended to be an informal meeting without the presence of legal counsel; and
- Confirm attendees.

#### **12.5. INTERNAL PREPARATION FOR THE DEBRIEFING**

Prior to the debrief the Procurement representative shall meet with the lead evaluation team representative in attendance (if required), to review the Debriefing Protocol, debrief summary (if applicable), and evaluation notes to ensure the roles and responsibilities are understood.

#### **12.6. CONDUCTING THE DEBRIEFING**

The following is a suggested structure for conducting a debriefing:

- Introductions and reiteration of the purpose of the debriefing;
- Summary of the evaluation;
- Overview of the Bidder's Bid;
- Discussion of suggestions on how the Bidder could improve future Bids;
- Questions and answers related to the Bidder's Bid; and
- Feedback from the Bidder on procurement processes and practices

The following may be discussed in a debriefing:

- A general overview of the evaluation process.
- Name and aggregate pricing of the successful Bidder if the information is available or known. No unit pricing will be provided.
- Specific evaluation information related to the criteria used to evaluate the Bids.
- Bidder's evaluation score and strengths and weaknesses of the Bidder's Bid in relation to the evaluation criteria.
- Suggestions on how the Bidder could improve future responses.
- Bidder's overall evaluation ranking (e.g., 3rd out of 5).
- Specific questions and issues raised by the Bidder as it relates to their Bid.
- Any information that was shared publicly as part of the Competitive Procurement process or other project related information that has been shared publicly by the Municipality.

The following is not permitted in a debriefing:

- Bidder's legal representation is not permitted to attend.
- Recording devices are not allowed; however, parties may take notes if they wish.
- Provision of scores of individual evaluators (only the final aggregate or consensus score assigned by the evaluation committee as a whole will be provided to the Bidder).
- Disclosure of scores and/or ranking of other Bidders.
- Comparisons to any other Bids.
- Provision of information concerning other Bidders and/or Bids. This must not be provided to a Bidder during a debriefing as it is prohibited by the Public Procurement Act and may also relate to confidential, third-party proprietary information that is subject to general common law confidentiality duties and protection under access to information legislation.
- Discussion of issues unrelated to the evaluation criteria or the Competitive Procurement process in question.
- Disrespecting or intimidating the Procurement or evaluation team representative. Should this occur, the debrief will be called to an immediate conclusion.

## **12.7. DEBRIEFING FOLLOW-UP**

Following the conclusion of a debriefing, a note is placed in the project file indicating a debriefing took place, the date it was conducted, who was in attendance and any relevant information.



## **12.8. PROCUREMENT COMPLAINTS/DISPUTES**

Bid challenges and dispute resolution is addressed in section 39 of the Policy.

Suppliers are encouraged to discuss any concerns during the debriefing process and raise any concerns with the Procurement Section about a particular procurement or procurement process prior to submitting a formal complaint or commencing legal proceedings.

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 section 18 of the Public Procurement Act and the Province of Nova Scotia's Vendor Complaint Procedure.

# 13. CONTRACT MANAGEMENT PROTOCOL

## 13.1. PURPOSE

The purpose of this protocol is to provide guidelines and set out the roles and responsibilities for the management of all contracts with suppliers for the provision of deliverables.

## 13.2. GENERAL PRINCIPLES

Contract management begins with the awarding of a contract and continues throughout the life of a contract until all the obligations under the contract have been satisfactorily completed, final payment has been made and warranties have expired.

Contract management is addressed in sections 32 to 35 of the Policy.

## 13.3. 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.

## 13.4. CONTRACT AMENDMENTS AND SCOPE CHANGES

If a contract change results in a net increase to the contract value previously approved, the change must be approved in accordance with the delegated authorities of the Policy. Contract amendments are addressed in section 32 of the Policy.

## 13.5. 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, Departments must ensure that potential disputes are proactively managed and appropriately escalated. Legal Services should be consulted for advice where appropriate. Written copies of all communications and correspondence with suppliers concerning a contract dispute must be maintained by the Department and shared with Procurement.

## 13.6. EARLY TERMINATION

A contract can only be terminated prior to its expiry date in accordance with the terms and conditions outlined in the contract. The authority to terminate a contract is

addressed in section 35 of the Policy. Departments must consult the Procurement Section and Legal Services prior to the termination of any contract.

### **13.7. RISK OF LEGAL ACTION**

Legal Services must be promptly advised if a supplier initiates or threatens legal action against the Municipality at any time throughout the life of a contract, or if there are signs that a supplier is experiencing financial difficulty (for example, the supplier fails to pay its employees, suppliers or subcontractors) or is otherwise in material breach of its obligations.

### **13.8. ROLE OF EXECUTIVE DIRECTORS AND THEIR DELEGATES**

It is the role and responsibility of the Executive Director or delegate to:

- assign a Contract Manager to each contract for deliverables procured on behalf of the Department
- provide support and advice to the Contract Manager as required;
- ensure that all Contract Managers in their Department are trained, and have knowledge and understanding of applicable policies and protocols; and
- monitor and ensure compliance with this protocol and the Supplier Performance Evaluation Protocol.

### **13.9. ROLE OF CONTRACT MANAGER**

It is the role and responsibility of the Contract Manager to:

- be familiar with, understand, and engage in day-to-day enforcement of the terms and conditions of the contract;
- facilitate and maintain a professional working relationship with the supplier;
- ensure all contracts are complete and accurate and executed prior to the commencement of any work or deliveries;
- ensure all invoices are complete and accurate prior to approving payment;
- review invoices in a timely manner and ensure approved payments are made in accordance with the payment terms in the contract;
- track renewal or extension dates and appropriately exercise discretion in respect of options to renew or extend contracts;
- anticipate and respond to changes in circumstances that may impact contract performance, such as: unseasonable weather; labour disruptions; unforeseen site conditions; indications of changes in the supplier's financial stability, etc.;
- meet with the supplier at appropriate intervals to discuss any performance issues or concerns and document such discussions
- formally evaluate the supplier's performance in accordance with the Supplier Performance Evaluation Protocol;
- document all communications related to the supplier's performance of the

- contract;
- consult with Legal Services and/or Procurement, as necessary, with respect to interpretation and enforcement of the terms and conditions of the contract; and
- seek advice from Legal Services and/or Procurement, as necessary, with respect to compliance issues and contract disputes.

The Contract Manager will create a file for the retention of documentation related to the contract, which should include at minimum:

- A copy of the contract and all related documentation, including, but not limited to, solicitation documents, the supplier's bid, customized agreements, related drawings, plans, purchase orders, schedules, specifications, etc.;
- Copies of warranties and/or documented certifications, such as ISO ratings, fitness certificates, compliance with electrical safety standards, etc.;
- Relevant dates, such as delivery dates (this notation may be as simple as a checkmark beside an expected receipt of goods date, and should be initialed and dated by the person doing the review);
- Details of any extenuating circumstances that had an impact on contract compliance (e.g. extreme weather, labour disputes, power outages, accidents, etc.);
- The date, nature, and outcome (positive or otherwise) of informal performance reviews;
- Bills of lading, work orders, service records, invoices, cheque requisitions, etc.;
- Change orders detailing new terms that have been negotiated into the contract, if applicable;
- Notes of all verbal discussions regarding contract compliance;

### **13.10. ROLE OF PROCUREMENT**

Day to day contract management is the responsibility of the Department that is receiving the deliverables under the contract. With the exception of contracts managed by Procurement on the Municipality's behalf, Procurement is not responsible for, and should not be involved in, the day-to-day management of a Department's contracts.

Procurement should be advised of serious performance issues or contract disputes that may result in early termination of a contract and must be provided with copies of all Performance Evaluation Reports in accordance with the Supplier Performance Evaluation Protocol.

It is the role and responsibility of Procurement to:

- create and keep a Procurement file for all procurements per the Records Retention Protocol
- facilitate the award and execution of Contracts
- collect and keep all original documents related to the contract including, but

- not limited to, Insurance, Surety, Professional and Product Certifications and WCB information and audits.
- assist Departments and Legal Services in connection with the possibility of early termination of a contract;
  - advise on options and strategies for supporting stability and supply of the deliverables in the event of early termination of a contract;
  - maintain detailed documentation of all communications related to supplier performance; and
  - retain copies of all Performance Evaluation Reports, in accordance with the Supplier Performance Evaluation Protocol.

## 14. SUPPLIER PERFORMANCE EVALUATION PROTOCOL

### 14.1. PURPOSE

The purpose of this protocol is to establish a performance evaluation process in order to evaluate supplier performance in a transparent and consistent manner.

### 14.2. PERFORMANCE EVALUATION

Supplier performance is critical to the success of procurement projects. Poor workmanship, unnecessary contract delays and unsafe work practices will not be tolerated.

In accordance with section 36 of the Policy, the Contract Manager will formally evaluate the supplier's performance and complete a Final Vendor Performance Review upon completion, expiration or termination of the contract. A copy of the Vendor Performance Review form is available on InsideHRM.

The Contract Manager may formally evaluate performance at any time during the contract or at specific milestones or anniversaries. For long term contracts a formal performance evaluation should be completed annually. **It is important to note that any options to extend a contract or a standing offer will not be approved unless a Final Vendor Performance Review has been completed.**

### 14.3. PERFORMANCE EVALUATION REPORT

The Contract Manager will notify the supplier of its overall performance rating and provide the supplier with a copy of the completed and signed Vendor Performance Review

When a performance evaluation is performed prior to the end of a contract, if the supplier receives an unsatisfactory rating on any of the rated criteria in the Performance Evaluation Report, the Contract Manager will meet with the supplier to clearly identify and discuss the performance issues, determine the corrective action that will be taken to rectify and avoid recurrence of the performance issues, and obtain the supplier's agreement to take the corrective action within a specified time period. Following the meeting, the Contract Manager will confirm the details and outcome of the discussion in writing to the supplier and will attach a copy of the written record of the meeting to the Vendor Performance Review. The Contract Manager will inform Procurement and, where appropriate, their Executive Director of the performance issues. If the performance issues are not rectified or there is a recurrence of the performance issues, the Contract Manager will consult with their

Executive Director, Procurement and Legal Services as appropriate to determine next steps.

When an evaluation is performed at the end of a contract, if the supplier receives an unsatisfactory rating on any of the rated criteria in the Performance Evaluation Report, the Contract Manager will advise the supplier and offer to discuss the performance issues, and will consider any comments or explanations provided by the supplier in the finalization of the Final Vendor Performance Review

#### **14.4. NOTIFICATION OF PROCUREMENT**

The Contract Manager will inform Procurement of any recommended actions resulting from the review and provide Procurement with a copy of the Final Vendor Performance Review

#### **14.5. NOTIFICATION OF SUPPLIER**

The Contract Manager will notify the supplier of its final rating and the resulting recommendation, provide the supplier with a copy of the completed and signed Final Vendor Performance Review.

#### **14.6. DISQUALIFICATION & SUSPENSION (BID-BARRING)**

As a result of the Vendor Performance review, the Department may recommend to Procurement that the supplier be disqualified or suspended from bidding on future projects. Disqualification and suspension (aka bid-barring) is addressed in section 37 of the Policy.

In the case where a Department feels that the performance issues are severe or repetitive and consistently unresolved, a written recommendation to disqualify or suspend the supplier should accompany the completed Vendor Performance Review. The Director of Procurement will consider the supplier's statement of dispute, if any, in making their decision. The decision of the Director of Procurement related to disqualification from bidding is final.

#### **14.7. RETENTION OF EVALUATION REPORTS**

The Contract Manager will retain all original Performance Evaluation Reports and will provide Procurement with a copy of each Vendor Performance Review. Procurement will retain copies of all Performance Evaluation Reports.

#### **14.8. DISCLOSURE OF RESULTS TO OTHERS**

The results of any Vendor Performance Review Process are intended to be disclosed internally across Departments and may, subject to any legislative restrictions, be disclosed to other government bodies upon request, and to any entity for which it can be demonstrated that the supplier has listed the Municipality as a reference.

#### **14.9. CONSIDERATION OF PERFORMANCE IN EVALUATION OF**

## **BIDS**

The Municipality may consider past performance evaluation results in the evaluation of future bids from the supplier, regardless of whether the past performance resulted in suspension or disqualification.



# 15. PROCUREMENT RECORDS PROTOCOL

## 15.1. PURPOSE

The purpose of this protocol is to describe the responsibilities of the Procurement Section in the handling and maintaining of Procurement Records.

## 15.2. SECURITY AND RECORDS MANAGEMENT

The Municipality must ensure that bidder and supplier information submitted in confidence as part of a procurement project is adequately protected. Procurement and the Departments 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.

## 15.3. RETENTION SCHEDULES

The maintenance, release, management and destruction of all procurement records must be in accordance with the Freedom of Information and Protection of Privacy considerations in the Nova Scotia Municipal Government Act and the Municipality's internal policies and procedures on Access and Privacy and Records Management.

## 15.4. THE TENDER FILE ("FILE A")

Procurement is responsible for ensuring that all documentation relating to the procurement project is properly filed and maintained in the procurement project file ("File A"). The following are the minimum requirements of what should be kept in each procurement project file:

- Approved requisition
- Copies of the Procurement Project Plan, if one is prepared
- Original copies of all final solicitation documents;
- Records of any communications with bidders or potential bidders;
- Addenda
- All Bids
- A record of non-compliant bids and the reason for non-compliance
- Conflict of Interest and Confidentiality Declarations from all participants in the Procurement Project (\$25K +)
- RFP - Evaluation forms from all evaluation members and a record of the number of Evaluators and their names:
- RFP – Peer reviewed final evaluations, evaluator list with scores & detailed notes:
- Records of any negotiations including correspondence: regarding

- submission, re- submission, meeting dates/times, supplemental terms, presentations
- Award approvals
- Rejection Letters

## **15.5. THE CONTRACT FILE (“FILE B”)**

Procurement is also responsible for ensuring that all documentation relating to the resulting contract is properly filed and maintained in the contract file (“File B”). The following are the minimum requirements of what should be kept in each contract file:

- A copy of the Solicitation
- Addenda
- Successful Bids
- Material correspondence post award (Emails and other notes):
- Award approvals
- Award Letter
- Purchase Order or Standing Offer or Scheduling Agreement:
- WCB – Verified cleared status on-line
- Insurance Documents
- Letter of Good Standing from Safety Audit
- Contract Security (Copy) – Performance Bond, Labour & Material Bond, Letter of Credit, etc.
- Copies of executed Agreements
- Verified listing with Registry of Joint Stocks (\$25K)
- Any amendments to the Standing Offer/Contract & updated supporting documents.
- Copies of debriefing or procurement protest procedure requests and outcomes.