

# Halifax Regional Municipality

## Procurement Manual

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

*Updated: May 23, 2024*

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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.

#### **1.4. TRADE AGREEMENTS**

The Municipality's procurement activities are subject to the obligations and thresholds of the Canadian Free Trade Agreement (CFTA), the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), and the Canada-UK Trade Agreement. Procurement thresholds for these agreements are in Appendix A of this Manual.

## 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**

- 2.6.1. The position of "Commissioner" is recognized as the having the delegated authorities of the "DCAO" as defined in the Policy.
- 2.6.2. On July 31, 2023, the CAO delegated the authorities of DCAO to the Executive Director of Public Works, the Executive Director of Property, Fleet and Environment, and the Executive Director of Parks and Recreation.
- 2.6.3. 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.

#### **3.3.1. Standing Offer Procedures**

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.

Each Standing Offer has an Individual Purchase Limit (IPL) and a Maximum Purchase Limit (MPL).

The IPL is the maximum value of an individual purchase order issued from the standing offer. Approved requisitions which exceed the IPL must be approved by the Procurement Lead responsible for the Standing Offer. The Procurement Lead may reject the request, approve the request on a case-by-case basis or recommend a global change to the Standing Offer’s IPL to the Director of Procurement.

The MPL is the maximum value that the total value of purchase orders placed against that Standing Offer cannot exceed and is the basis for approval of the Standing Offer. When the MPL of a Standing Offer is reached, the Procurement Section will determine whether to resolicit the Standing Offer or increase the MPL.

### 3.3.2. Methodology for Standing Offers

#### a) One Standing Offer:

Where only one standing offer will be authorized for use as the result of a competitive RFSO, the resulting call-ups are considered competitive and the authority to make a call from a standing offer applies. In instances where the supplier cannot meet HRM’s requirements in a timely manner due to extended backorders or inability to meet schedule another supplier may be considered. When considering a supplier outside of the original procurement the Department (under \$10,000) or Procurement (over \$10,000) shall seek a minimum of two (2) competitive bids for the replacement goods, services or construction from suppliers not included in the standing offer. In urgent circumstances that allow for only one bid, the resulting contract is subject to the conditions for Alternative Procurement,

#### b) Multiple Standing Offers:

If more than one standing offer will be authorized for use based on a reasonable expectation of business activity such that a single offeror would lack the capacity to meet the demands, clear ranking methodologies and call-up procedures must be described in the RFSO, so that suppliers are aware of these when preparing their offer. Normally the Municipality uses a “right of first refusal” or “primary, secondary, tertiary” approach to call-ups as follows.

Under a “right of first refusal” approach, the user will contact the highest-ranked offeror to determine if the requirement can be satisfied by that offeror. If the highest-ranked offeror is able to meet the requirement, a call-up is made against its standing offer. If that offeror is unable to meet the requirement, the identified user will contact the next ranked offeror. The user will continue and proceed as above until one offeror indicates that it can meet the requirement of the call-up. In other words, call-ups are made based on the “right of first refusal” basis. When the highest-ranked offeror is unable to fulfill the need, the user is required to document this appropriately. The resulting call-ups are considered competitive and the competitive call-up authorities can be used. In the case where none of the suppliers on standing offer can provide the goods, services or construction, a supplier outside of the original procurement can be considered. When considering a supplier outside of the original procurement the Department (under \$10,000) or Procurement (over \$10,000) shall seek a minimum of two (2) competitive bids for the replacement goods, services or construction from suppliers not included in the standing offer. In urgent circumstances that allow for only one bid, the resulting contract is subject to the conditions for Alternative Procurement,

Changes to Standing Offers must be approved by the Director of Procurement.

### **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.

HRM uses qualified supplier rosters when goods or services are bought on a regular basis but when a standing offer is not suitable because of variables in the resulting call-ups. Individual requirements are either procured on a competitive basis or negotiated based on a specific requirement. This saves time and money by prequalifying suppliers and establishing the basic terms and conditions that will apply to a specified range of goods or services. They also give Departments the flexibility to either solicit bids competitively or negotiate for their specific requirements to obtain the best value possible, depending on the estimated value of the contract. The conditions of the contract have already been agreed so during the callup process, only the Department’s requirements and price might require negotiation.

Pre-qualified supplier rosters are generally the result of a Request for Supply Qualifications (RFSQ) process that have been publicly solicited by Procurement. Businesses that are interested in responding to bid solicitations are invited to submit their qualifications to join a pre-qualified supplier roster and the resulting list of pre-qualified suppliers is used as a source list for related projects. When a pre-qualified supplier roster exists it’s use by Departments is mandatory and only suppliers who

are pre-qualified at the time individual bid solicitations are issued are eligible to bid.

Similar to standing offers, the supply agreement for a pre-qualified roster is not a contract, so there is no obligation for HRM to purchase anything until the supplier has submitted its bid and it has been accepted. Each contract awarded is considered to be a separate legally binding contract established between HRM and the supplier.

Procurement will set the contracting limits and process for the Department based on input from the Department and in consideration of the scope of work. In addition to predefined contracting limits and prescribed methods of solicitation, qualified supplier rosters include a set of predetermined conditions that apply to all resulting bid solicitations and contracts.

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.

When a prequalified supplier list is appropriate to use, there are two ways a bid is solicited depending on the requirements:

- a) For requirements that within the thresholds stated in the original RFSQ, bids are solicited only from qualified suppliers that are on the roster. The constraints on how bids are solicited including the number of invitations issues, the way they are presented, and the applicable thresholds are included in the original RFSQ document.
- b) In the rare instance that HRM desires to use a roster for projects exceeding the originally stated thresholds, all qualified suppliers will be invited to bid. If the estimated project value exceeds applicable trade agreement thresholds. In this instance, a Notice of Proposed Procurement is published on HRM's e-sourcing website and the Nova Scotia tenders website, and a normal invitational process takes place including issuance, bid evaluation and supplier selection and award.

### **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 Attachment 1 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.

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### 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:

The Supplier agrees to provide [insert description of the Services] to the PSE.

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.

[Notwithstanding section [X] of the Supply Agreement, the PSE and the Supplier agree that ...]

[Notwithstanding section [Y] of the Supply Agreement, the PSE and the Supplier agree that ...]

[Notwithstanding section [Z] of the Supply Agreement, the PSE and the Supplier agree that ...]

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.

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.

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.

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: \_\_\_\_\_

## Attachment 1 - 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:</b> Y   <b>Services:</b> N   <b>Construction:</b> N
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 HRM's e-bidding system and/or 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 HRM's e-bidding system and/or the Nova Scotia Public Tenders website. The RFSQ document(s) should be posted at the same time as the notice.

#### 4.3.2 Time Period for Bid Submission

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

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 or the publication of a new RFSQ, whichever is sooner.

### **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.

#### 4.6 LIMITED (SELECTIVE) TENDERING

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 (Selective) Tendering is allowed within the published constraints of the RFSQ, Procurement may conduct a Roster Competition in accordance with the following:

- (a) All qualified parties will be invited to respond via HRM's e-bidding system.
- (b) The notice of intended procurement must be publicly posted on HRM's e-bidding system and the Nova Scotia Public Tenders website and must indicate that inclusion on the Qualified Supplier Roster is a condition of participation in the Roster Competition. The public notice must include the ability for non-qualified parties to submit their qualifications to be added to the list of qualified suppliers prior to the closing date of the solicitation.
- (c) 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.
- (d) If a supplier that is not included on the Qualified Supplier Roster submits a request to participate 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. 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.

# 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.
- **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.

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 enter limited negotiations with HRM.

Normally, HRM's standard RFP process allows for negotiation of certain terms and conditions but is limited to those provisions or parts of the Form of Agreement that are expressly indicated as being subject to completion or finalization, or which HRM determines in its discretion require completion or finalization and/or; that are necessary to create or provide for a legally complete, enforceable and binding agreement; and/or that enhance clarity in legal drafting. If any further negotiation is contemplated, the framework for such negotiations must be detailed in full in the RFP.

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 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.

### **Request for Proposal (RFP) - All**

- 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 intend to award a contract to the highest ranked proposer.

### **Request for Proposal (RFP) - Competitive Dialogue**

- 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 option 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 the option 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 the offer or best and final offer, 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 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 multiple 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 TIME FRAMES

Except in the case of emergency, solicitations (excluding limited/selective tenders as noted in Section 4.6 of this manual) exceeding \$25,000 must be open for bids for a minimum of 10 business days. Solicitations exceeding applicable trade agreement thresholds, excepting limited/selective tenders as noted above must be open for bids for the minimum periods stated in the applicable trade agreement. The minimum posting periods and thresholds can be found in Appendix A of this Manual.

## 7.3 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.

## 7.4 SOCIAL VALUE REQUIREMENT

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.

## 7.5 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.

## 7.6 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.

## 7.7 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.

### 7.7.1 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.

### 7.7.2 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”).

### 7.7.3 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.

### 7.7.4 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.

## **7.8 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.

## **7.9 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.

## **7.10 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 HRM's e-bidding system and/or 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 HRM's e-bidding system and 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 AND ADVANCE TENDERING PROTOCOL

## 10.1 DEFINITIONS

**Multi-Year Capital Plan:** The capital plan presented to Regional Council includes planned budgets for four years. Regional Council approves the first year of the budget and may approve all or a portion of the subsequent three years in principle.

**Multi-Year Project:** Certain capital projects contained within the Multi-Year Capital Plan are identified and approved by Regional Council as Multi-Year Projects. This recognizes Council's commitment to proceed with the entirety of a project that will take more than one fiscal year to complete. It also enables staff to commit funds in future fiscal years in accordance with the Procurement Policy. The funds may be committed for the future fiscal years but cannot be expended until the fiscal year for which they were planned.

**Advance Tendering:** Selected capital projects identified in the first year of the Multi-Year Capital Plan Regional Council may be brought forward prior to budget debate for early approval. Advance tendering is to allow procurement processes to begin early so that work activities may commence as soon as the new fiscal year starts.

## 10.2 MULTI-YEAR CAPITAL PROJECTS REQUIRING FUTURE YEAR(S) CAPITAL FUNDING

In compliance with the Policy, the Municipality may award certain multi-year capital contracts 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

- a) 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).
- b) 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.
- c) Requisitions for Multi-Year Projects must identify the estimated value for each year including delivery dates for each year's expenditure.
- d) 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.
- e) 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).
- f) 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).

### **10.3 ADVANCE TENDERING**

- 10.3.1 Capital projects may be presented to Halifax Regional Council on an annual basis as “advance tendering” and solicited and awarded in January of the next calendar year.
- 10.3.2 Council must be made aware that by approving an advance tender project, they are making a firm commitment to fund that project prior to approving the total Capital Budget
- 10.3.3 Expenditures related to advance tendering may not be made prior to the start of the next fiscal year.

### **10.4 MULTI-YEAR OPERATING AGREEMENTS**

- 10.4.1 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.
- 10.4.2 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)).
- 10.4.3 Requisitions for multi-year operating contracts projects must identify the estimated value for each year
- 10.4.4 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.
- 10.4.5 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).
- 10.4.6 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, considering factors including (but not limited to):
  - What 'need' is being met by the procurement?
  - What is being procured?
  - Which communities are affected by the procurement?
  - What are the social priorities in those communities?
  - What are the social priorities for HRM?
  - What are the priorities for the internal stakeholders?
  - Will the goods or services be delivered to, or target the specific needs of, a particular group such as African Nova Scotians and First Nations, or in locations that have a higher First Nations or African Nova Scotian (or other target group) population?
  - Are there opportunities to break down the procurement by designing a program of smaller works, thereby supporting supplier diversity, generating opportunities for social benefit suppliers, small or regional businesses?
  - Should any of those smaller works be set-aside and offered to social benefit suppliers, thereby including them in the supply chain?
  - What are the peripheral services that may result from the work (e.g. catering near job sites or cleaning services) and is it possible to link successful tenders with social benefit suppliers to promote these opportunities?
  - Could apprenticeships or paid internships be created / required to support the delivery?
  - Should suppliers be asked to describe their corporate social responsibility strategies?

## **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
- b) Early engagement with and analysis of the supply market to investigate:
  - capacity within a supply market to deliver on social benefits
  - what social benefit suppliers exist and what is their capacity and capability
  - any examples of social value generation using suppliers in a market
  - the diversity of suppliers in a market
  - how risks can be managed when social benefits are added to the contract
  - how suppliers may respond to the addition of social benefit requirements into procurement projects.
- c) Engaging with internal stakeholders, social value certifying organizations and/or Community Stakeholders
- d) Market analysis, including assessment of how social value has been delivered in similar contracts in other jurisdictions

## **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 that contractual requirements are addressed.**

After the tendering process is finalized and a supplier(s) is selected, commitments made by the successful bidder about delivering social benefits need to be included in the contract. These commitments then need to be monitored over the life of the contract alongside other deliverables.

Social value requirements can be incorporated into the contract through reference to the solicitation and bid documents, but the measures and subsequent reporting obligations for any specific commitments made by the supplier in their bid response should be incorporated into the contract. Social clauses in contracts should describe reporting requirements and play an important role in ensuring delivery of the social value benefits and outcomes. They should:

- be referenced to measurable performance indicators
- state how the social benefits will be monitored
- include what management processes are in place to evaluate the supplier's performance in relation to achieving the agreed social benefits, such as a schedule for contract management meetings.

Performance indicators and reporting requirements need to be clear and specific. Unmeasurable outcomes within contracts significantly diminish the likelihood of success.

Note: Social clauses are often unique to the nature of the social value outcomes, so they are not included in HRM's standard agreements. The inclusion of specific social clauses must be reviewed by Procurement Services and incorporated into the solicitation document as supplementary terms and conditions prior to publishing the solicitation to the market. Where necessary Procurement will engage Legal Services.

**Step 7: Monitor and measure the social value being delivered.**

Social impacts and a supplier's commitments should be actively monitored and managed regularly, in the same way as other contract obligations, such as quality and costs. Actively monitoring and managing these expectations creates opportunities to identify how outcomes and delivery might be enhanced and ensures the procurement is delivering the intended social impact.

Stipulating measurable social benefit expectations and actively managing them sends a strong message to suppliers that HRM is serious about securing social value alongside goods and services.

Wherever possible, these measures should be linked to HRM priorities, such as job outcomes or community, and should be captured and reported in a standardized way.

#### Tips for managing outcomes

- a) Reporting requirements should specify the target outcomes, the performance indicators for achieving the outcomes and the reporting terms and times.
- b) Make sure performance indicators are easily understood. It should be clear to the supplier how performance indicators are related to targets and outcomes.
- c) Monitoring and reporting requirements should be proportionate to the size and importance of the social benefits being delivered.
- d) Make sure the monitoring of social benefits and outcomes are measured and reported alongside other deliverables within the contract. This sends a strong message to suppliers about the importance of the social benefits.
- e) Discuss social benefits with suppliers regularly. Make it clear the social benefits are important to you and work with suppliers to solve any problems or to enhance outcomes where possible.

## 11.6 EXAMPLES OF TYPICAL CONSIDERATIONS:

The decision of how to include Social Value considerations in any Procurement Project must be made in the context of the Procurement strategy and document format.

Social Value considerations may be included as prescriptive (mandatory) obligations, non-prescriptive (evaluated) expectations or a combination of both.

**Prescriptive requirements**, which are more commonly used in quotation and tender processes can be used where the Project Lead/Department has a very clear understanding of social benefit requirements and how they want them delivered. This provides clarity to potential suppliers on the social benefits being sought by the buyer and enables measurable indicators of success that can be built into contractual arrangements. In turn, HRM can more easily demonstrate that they are supporting social outcomes and Departments can target their spending to address specific priorities. The risk in using prescriptive requirements is that they may present challenges for some potential suppliers who lack experience in delivering on social benefits or outcomes. In some cases, this can be mitigated by undertaking appropriate pre-publishing or pre-closing interactions with potential suppliers (ie/ information sessions, market sounding), In some cases, potential bidders can be introduced to known social benefit suppliers, social value associations and community leaders and resources., Although prescriptive, these requirements can be aspirational in nature, further mitigating the sourcing risk. For example “The supplier shall use best efforts to.....”

Typical examples of prescriptive considerations that may be included in a

solicitation include but are not limited to:

<b>Prescriptive Requirement (Contract obligation)</b>	<b>Action/Measure</b>
<i>The supplier shall use their best efforts to ensure a minimum of X proportion of supply chain spend is with local Small and Medium Enterprises, Social Enterprises or Diverse Businesses</i>	<i>Include social value supply chain spend in scheduled contract management meetings.  Require regularly scheduled reports regarding status of these supply chain requirements.</i>
<i>The supplier shall reduce and report upon any reduction in energy use/carbon emissions/increased use of renewable energy associated with the contract.</i>	<i>Include efforts to reduce GHGs and renewable energy use in scheduled contract management meetings.  Require regularly scheduled reports regarding status of these requirements.</i>
<i>The supplier shall reduce and report upon any reduction or reuse of waste and/or demolition materials generated by the project.</i>	<i>Include efforts to reduce and reuse waste in scheduled contract management meetings.  Require regularly scheduled reports regarding status of these requirements</i>
<i>The supplier shall use of environmentally certified products in the delivery of the services</i>	<i>Require regularly scheduled reports indicating which environmentally certified products have been used during the past period.</i>
<i>The supplier shall provide and report upon work opportunities for disadvantaged people or historically underemployed communities delivered during the contract.</i>	<i>Include efforts taken to provide/offer work opportunities for disadvantaged people or historically underemployed communities in scheduled contract management meetings.  Require regularly scheduled reports regarding status of these requirements including # of opportunities offered and # of opportunities provided/hired that include disadvantaged or historically underemployed people</i>
<i>The supplier shall use their best efforts to ensure that a minimum of X FTE new jobs shall be created in the delivery of the contract. X of these will be in the first year of the contract</i>	<i>Include efforts taken to achieve new job targets in scheduled contract management meetings.  Require regularly scheduled reports regarding status of these requirements including the number of new jobs created</i>
<i>No member of staff employed by the supplier, or its sub-contractors shall be paid less than the Halifax living wage.</i>	<i>Require attestation by supplier. Apply Supplier Code of Conduct. Living Wage requirements are complaint based – no reporting required.</i>
<i>X new apprenticeships or on the job training opportunities will be offered to youth (under 25) living in HRM</i>	<i>Include efforts taken to achieve apprenticeship targets in scheduled contract management meetings.  Require regularly scheduled reports regarding status of these requirements including the</i>

	<i>number of youth who are offered apprenticeships.</i>
<i>The supplier shall use their best efforts to ensure that <b>X number/X percent</b> of apprenticeship or trainee hours will be offered in the delivery of <b>[skilled trade work/architectural services/engineering services.]</b></i>	<p><i>Include efforts taken to achieve apprenticeship targets in scheduled contract management meetings.</i></p> <p><i>Require regularly scheduled reports regarding status of these requirements including the hours of work performed/offered to apprentices.</i></p>
<i><b>X</b> percentage of new jobs will be offered to people who find it difficult to access work.</i>	<p><i>Include efforts taken to be offer jobs to people who find it difficult to access work in scheduled contract management meetings.</i></p> <p><i>Require regularly scheduled reports regarding status of these requirements including the number of jobs offered to people who find it difficult to access work</i></p>
<i><b>X</b> percentage of new jobs resulting from the contract by shall be offered to youth (under 25).</i>	<p><i>Include efforts taken to be offer jobs to youth in scheduled contract management meetings.</i></p> <p><i>Require regularly scheduled reports regarding status of these requirements including the number of jobs offered youth</i></p>
<i>The supplier shall improve the skills levels of existing staff by training <b>xx%</b> of the workforce assigned to the services.</i>	<p><i>Include skills development in scheduled contract management meetings.</i></p> <p><i>Require regularly scheduled reports regarding status of these requirements including the percentage of workers offered training opportunities</i></p>
<i>The supplier shall invest <b>xx%</b> of the profit achieved in delivering the contract to in local community, culture and heritage.</i>	<p><i>Include community, cultural and heritage investment in scheduled contract management meetings.</i></p> <p><i>Require regularly scheduled reports regarding status of these requirements including the value of local investment (this may be at the end of the contract)</i></p>

**Non-prescriptive** (or a combination of non-prescriptive and prescriptive) expectations are typically used in RFPs and RFSQs but may be included in any procurement strategy. Non-prescriptive requirements should be used when how to deliver social value opportunities, including the capacity of the supply market, are not well understood by HRM. Scoring non-prescriptive requirements encourages potential suppliers to aim high when communicating what social benefits they can deliver. For requirements that may be a challenge for the marketplace this also encourages potential suppliers to build capacity and capability to deliver social benefits alongside their goods and services.

When including non-prescriptive requirements, staff 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.

Examples of non-prescriptive or mixed requirements (submission requirements) include but are not limited to:

Requirement (Submission requirement)	Suggested Contract Requirement/Measurement
<p><i>HRM is committed to supporting employment opportunities for people with a disability, indigenous peoples. African Nova Scotians, newcomers, young people at risk of long-term unemployment and people from traditionally underemployed communities. Please describe how your organization will provide / support jobs for members of these groups through the delivery of goods and/or services under this contract. Please indicate how many full-time equivalent (FTE) positions your organization will support directly, or indirectly via supply chains, for [name the target group/community(s)] when delivering on this contract OR Please indicate the percentage (%) of work that will be delivered by [name the target group/community(s)] under the contract. This can be a minimum percentage of hours.</i></p>	<p><i>The supplier agrees utilize their best efforts to support [number] of Fulltime equivalent (FTE) employment opportunities for [name the jobseeker target group or disadvantaged jobseekers] in connection with the project.</i></p> <p><b>OR</b></p> <p><i>The supplier agrees utilize their best efforts to ensure that [minimum percentage] of work under the contact will be delivered by [name the jobseeker target group or disadvantaged jobseekers] in connection with the project.</i></p> <p><i>Performance reviews (including the number of FTE positions filled by the target group, or any issues associated with the employment commitment) will form part of scheduled contract management meetings.</i></p> <p><i>The supplier will provide [name the reporting timeframe] reports regarding status of these employment requirements.</i></p>
<p><i>HRM seeks to achieve social value through our procurement and to do business with ethically, environmentally, and socially responsible suppliers. Describe how you will engage social benefit suppliers when delivering the project, thereby supporting employment and training opportunities for people with a disability, indigenous peoples. African Nova Scotians, newcomers, young people at risk of long-term unemployment and people from traditionally underemployed communities. How many new FTE positions do you expect to create and support over the life of the project?</i></p>	<p><i>The supplier will engage [name social benefit supplier(s)] as subcontractor(s) / provider(s) as included in their bid], thereby supporting [X number] of FTE positions for [name the jobseeker target group or disadvantaged jobseekers].</i></p> <p><i>The supplier will notify HRM within ten (10) business days of a change to the social benefit supplier, or of any significant issues associated with achieving or maintaining the FTE positions target.</i></p> <p><i>The supplier will provide [name the reporting timeframe] reports regarding status of these requirements</i></p>
<p><i>HRM seeks to achieve social value through our procurement and do business with ethically, environmentally, and socially responsible suppliers. Does your organization identify as a</i></p>	<p><i>The supplier will notify HRM within ten (10) business days if the status of the supplier changes and it is no longer a social benefit supplier.</i></p>

<p>social value supplier? If yes – Provide a brief description of your organizational structure and history which demonstrates that social benefits are core to your operations.</p>	
<p>HRM is committed to increasing procurement with Indigenous, Female, LBGTQ+ , African Nova Scotian and veteran owned businesses. Does your organization identify as an Indigenous, Female, LBGTQ+, African Nova Scotian or veteran owned business? If yes – please provide supporting documentation. Is your business registered with a certifying organization representing diverse businesses? If yes – Provide any proof of certification and a brief description of your organizational structure and history which demonstrates that social benefits are core to your operations. Preference will be given to certified organizations.</p>	<p>The supplier will notify HRM within ten (10) business days if the status of the supplier changes</p>
<p>How will your organization improve the participation of [name the target group] in the workforce and community; and/or engage with [name the target group] owned businesses?</p>	<p>The supplier shall utilize their best efforts to improve the participation of [name the target group] in the workforce and community; and/or engage with [name the target group] owned businesses as laid out in their bid.</p> <p>Performance reviews (including the efforts taken to improve the participation and engagement of [name the target group]) will form part of scheduled contract management meetings.</p> <p>The supplier will provide [name the reporting timeframe] reports regarding status of these requirements</p>
<p>Please provide details about how your organization will provide training opportunities for [name the jobseeker target group or disadvantaged jobseekers]. Where possible include evidence of your organization’s experience in delivering training programs that promote progression within the work force and economic and social participation for [name the jobseeker target group or disadvantaged jobseekers].</p>	<p>The supplier shall utilize their best efforts to deliver training programs that promote progression within the work force and economic and social participation for [name the jobseeker target group or disadvantaged jobseekers] as laid out in their bid.</p> <p>Performance reviews (including the efforts taken to deliver training programs that promote progression within the work force and economic and social participation) will form part of scheduled contract management meetings.</p> <p>The supplier will provide [name the reporting timeframe] reports regarding status of these requirements</p>
<p>Describe any programs or initiatives your organization has in place directed to meeting</p>	<p>The supplier will notify HRM within ten (10) business days if the supplier’s approach to</p>

<p><i>social and ethical responsibilities and objectives, such as: engaging with social benefit suppliers, such as social enterprises, or with Indigenous-owned businesses or African Nova Scotian-owned businesses and evidence of its implementation; creating employment opportunities for disadvantaged or vulnerable jobseekers such as: long- term unemployed people, people with disabilities, people with a lived experience of mental health conditions, people from culturally and linguistically diverse backgrounds, people exiting prison, ex-offenders or parolees. Preference may be given to bidders who are able to deliver relevant social benefits alongside the goods or services which are the core subject of this contract. Proponents should provide supporting documentation.</i></p>	<p><i>meeting social and ethical objectives change during the contract period.</i></p> <p><i>Performance reviews (including any efforts taken to engage with social benefit suppliers, such as social enterprises, or with Indigenous-owned businesses or African Nova Scotian-owned businesses and/or to create employment opportunities for disadvantaged or vulnerable jobseekers such as: long- term unemployed people, people with disabilities, people with a lived experience of mental health conditions, people from culturally and linguistically diverse backgrounds, people exiting prison, ex-offenders or parolees) will form part of scheduled contract management meetings.</i></p> <p><i>The supplier will provide [name the reporting timeframe] reports regarding status of these these requirements.</i></p>
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## 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. When a scope of work is contemplated in the estimated budget and solicitation and included in the evaluation of the bid but not part of the original award, this is not considered as an amendment. These types of change are subject to the authorities to approve contractually defined options. See 13.5

## 13.5 CONTRACTUALLY DEFINED OPTIONS

Contract options may include the option to include additional goods or services to the contract or the option to extend the term of a contract. Trade agreement obligations require public entities to consider the estimated value of any pre-considered contract options in relation to our Trade Agreement thresholds when publishing a solicitation.

Additional goods, services and time which are defined in a solicitation or a contract, including construction administration, supervision or inspection services are included in the published budget estimate and the original solicitation and included in the evaluation of bids. These services are considered as contractually defined options and are subject to the approval authorities to exercise contractually defined options. Occasionally, additional required goods, services or time are not considered in the originally published solicitation. Depending on the contract and

the nature of the goods, services, and time, these may be construed as either a contract amendment or an alternative procurement. Departments should consult with Procurement to consider the appropriate process and approval authorities.

### **13.6 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.

### **13.7 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.

### **13.8 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.

### **13.9 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.

### **13.10 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;

### **13.11 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. VENDOR PERFORMANCE MANAGEMENT PROTOCOL (Effective July 1, 2024)

### 14.1 PURPOSE

The purpose of this protocol is to provide an overview and procedural document related to HRM processes to effectively apply the Vendor Performance Management (VPM) program. This is a companion reference to the HRM's e-sourcing solution. As contracts vary in size, value and complexity, the material in this document will provide a guideline on how to evaluate a vendor's performance and communicate it effectively.

### 14.2 BACKGROUND

Administrative Order 2022-012-ADM, The Procurement Administrative Order requires Departments to complete a supplier evaluation scorecard at the completion of each contract or as otherwise directed by the Director of Procurement.

The Procurement Section is required to maintain supplier performance files that contain information supplied by Department and Procurement Section staff, including supplier evaluation scorecards.

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

Thresholds for the VPM framework have been defined as follows:

- all consulting assignments including calls from prequalified supplier lists (rosters) over \$100,000
- all multi-year operational services contracts (scheduling agreements)
- Goods and Services Purchase Orders not associated with a standing offer or other arrangement over \$50,000
- standing offer and prequalified supplier arrangements over \$100,000
- all Capital Construction contracts over \$100,000.

These amounts apply to the initial pre-tax Purchase Order (PO) value.

When vendors fail to meet their contractual obligations, including adherence to legislated standards and HRM policies HRM staff must document and address vendor performance immediately.

This will ensure performance issues can be addressed in a timely manner and allow the vendor to achieve performance improvement through ongoing discussions/communication.

### 14.3 GOALS OF VPM

The goals of implementing a VPM process and system for HRM are to:

- Support HRM's procurement and contracting objectives of value for money, fiscal and social responsibility, and openness and transparency with respect to contract performance.
- Provide a framework for HRM to incentivize good performance while strengthening the means through which HRM can hold poor performers accountable.
- Provide a defined performance evaluation methodology to ensure a consistent approach to vendor performance evaluation.
- Improve communication between staff that manage vendors (e.g., Project Managers) and vendors.
- Strengthen HRM's ability to manage vendor performance by proactively addressing issues and to improve the overall performance of vendors over time (in a measurable way)
- Build a history of vendor performance, allowing vendors the opportunity to improve performance over time and allowing HRM to consider documented historical performance in its vendor selection processes..
- Provide for the appropriate recording, tracking, and management of vendor demonstrated performance information through the Electronic Bidding System.

#### 14.4 ROLES AND RESPONSIBILITIES

**Executive Directors** are accountable for procurement activities within their departments and divisions.

**Managers** are the staff to whom Project Managers directly report.

Managers are responsible for:

- Monitoring the overall VPM process within their work areas.
- Meeting with vendors and Project Managers to discuss performance issues as required.
- Ensuring that major issues with vendor performance are escalated to Procurement and the Director as soon as possible.
- Setting escalation processes related to vendor performance.
- Reviewing and approving evaluations below 50%
- Manage and review appeals, in collaboration with Procurement.
- Participate in appeal review meetings as required
- In collaboration with Procurement, make decisions on all appeals submitted to the department.

**Project Managers** are the recipients of goods and/or services, and staff who manage professional services or construction projects, or use contracted services to renew, rehabilitate and maintain HRM assets and include 3<sup>rd</sup> Party Project Managers who are under contract with HRM to act as an HRM project Manager. Project Managers represent HRM as the client/customer and are directly impacted by vendor performance. As such, Project Managers are in the best position to monitor and record project milestones, project

deliverables, work practices, shipping, deliverables and to manage the contractual relationship with vendors through effective communication and dispute resolution.

**Project Managers** are responsible for:

- Creating ad-hoc, interim and final evaluations in the e-sourcing solution for invitational contracts from a framework agreement
- Evaluating and reporting the performance of the vendor in e-sourcing solution over the course of the contract.
- Providing feedback and comments to the vendor on performance at regular intervals.
- Communicating feedback on vendor performance and the results of vendor performance evaluations to vendor.
- Maintaining an open line of communication with the vendor, including serving as the first stage of resolution for vendors contesting their Vendor Performance Scores.
- Recording and substantiating the results of all evaluations and discussions and ensuring they are entered into the e-sourcing solution.
- Collaborating with Procurement staff to ensure the successful inputting, storage, and use of performance information into the e-sourcing solution.

**3<sup>rd</sup> Party Project Managers** may be given the responsibility of a Project Manager as it relates to this protocol, with the following constraints:

- 3<sup>rd</sup> Party Project Managers shall not evaluate their own firm.
- 3<sup>rd</sup> Party Project Managers shall not evaluate any vendor with whom they may compete nor form any perception of conflict of interest (for example, engineers shall not evaluate vendors who offer engineering services, architects shall not evaluate vendors who offer architectural services, IT project managers shall not evaluate vendors who offer similar services, employees of firms that offer construction services shall not evaluate construction contractors, etc.)
- 3<sup>rd</sup> Party Project Managers shall not evaluate a firm that they have worked for in the previous twelve (12) months.
- 3<sup>rd</sup> Party Project Managers shall not collude with others.
- 3<sup>rd</sup> Party Project Managers shall not disclose and/or take advantage of any vendor performance information gained under their contract with HRM for their personal gain and/or for their company's gain.
- 3<sup>rd</sup> Party Project Managers shall disclose in writing, to HRM any conflicts of interest which may affect their objectivity.
- 3<sup>rd</sup> Party Project Managers shall maintain the appropriate documentation to support vendor performance evaluations.
- Evaluations performed by 3<sup>rd</sup> Party Project Managers shall be reviewed and approved by HRM staff.

**The Procurement Division** is responsible for:

- Maintaining, interpreting, and administering the Program and providing oversight and guidance to HRM employees and Departments.
- Using the e-sourcing solution to manage user accounts, vendor profiles, and system access.
- Developing standard vendor performance clause(s) for inclusion in procurement documents, contracts, and other legal agreements.
- Providing communications and training to support the implementation of the

Program.

- Contract Administration including creating Interim and Final evaluations in the e-sourcing solution when awarding a contract.
- Ensuring the Vendor Performance Evaluations are completed on schedule
- Tracking, analyzing, and reporting on trends and systemic issues related to performance.
- Working with all parties, including the vendor, when Vendor Performance Scores are contested.
- Leading and coordinating contesting of scores, including reviewing documentation submitted by all parties, providing recommendations to Executive Directors and Managers, sending Notices of Decision to the vendor once a decision has been made.
- Updating the e-sourcing solution with the revised Vendor Performance Scores if required following contestation.

The **Vendor** is the entity with whom HRM has entered a contract for the delivery of Goods, Services and/or Construction. This includes but is not limited to suppliers of goods and operational services, consultants, paid advisors, general contractors, and trade contractors.

Vendors are responsible for:

- Responding to any communications regarding performance management over the course of the contract, including communications pertaining to Vendor Performance Scores and contestation process.
- Accepting or rejecting (by appealing) Vendor Performance Scores within 20 Calendar Days of Vendor Performance Scores are received; and
- In the case of contestation, duly completing and submitting the appropriate documentation.

## 14.5 PERFORMANCE MANAGEMENT DURING PROJECT LIFECYCLE

The Project Manager should attempt to solve performance issues on an ongoing basis. Ongoing communication and a proactive approach can reduce or remove potential performance risks.

Vendor performance discussions should be included on the agenda at project progress meetings on a regular basis. However, these discussions must be confidential between the Vendor and the Project Manager, and no subs, utilities or others should be present. Project Managers may wish to schedule discussions at the beginning or end of the meeting so confidentiality can be maintained.

Progress shall be discussed in an ongoing manner through emails, meetings, documented conference calls and letters. Interim evaluations may be discussed during these meetings.

Emails and letters can be used as a tool to document on-site, in telephone and/or in-person discussions and ensure mutual understanding. As with all documents that detail decisions and action items, these should be included in the project file.

Where applicable, Project Managers should also solicit input from their client department regarding the performance of the vendor. Input from contract administrators, site supervisors, inspectors, etc. can also be considered when evaluating contractor performance.

In cases of non-performance that risks jeopardizing a project or continuity of HRM services (“serious non-performance”), ad-hoc performance evaluations can help document the non-performance. All communications related to serious non-performance should be documented, along with the vendor’s response and/or corrective plans.

If the non-performance continues without improvement, the Project Manager should engage the Procurement Lead and a meeting will be initiated with the supplier advising the supplier that if no action is taken to correct the problem, the vendor may be found in default of the contract. This may result in termination of the contract. The details of the meeting will be formally documented with all parties including Procurement and Departmental leadership.

In the case where a department feels that the performance issues are ongoing, place serious risk on the Project or services and appear to be consistently unresolved, a written recommendation to terminate the contract and disqualify or suspend the supplier should be submitted to the Director of Procurement. Prior to disqualification, the Director of Procurement, in collaboration with the Department and Legal Services will provide notice to the Vendor per the requirements of the contract. The Director of Procurement will consider the supplier’s statement of dispute or appeal, if any, in making their decision. The decision of the Director of Procurement related to disqualification from bidding is final.

## **14.6 INTERIM EVALUATIONS**

Interim evaluations are a tool for formally communicating performance while the actual work of the contract is still ongoing. Interim evaluations are completed in e-sourcing solution and use the same evaluation categories as the final evaluation, but do not count towards the final vendor score and cannot be appealed. Interim evaluations will help the vendor gain an understanding of how their performance on the contract is currently viewed by the Project Manager and will provide information on areas to target for improvement.

Although the Project Manager may schedule an interim evaluation at any time at their sole discretion, projects less than six (6) months in duration do not require an interim evaluation. Projects exceeding 6 months will have minimum of two (2) evaluations per 12-month period including one (1) interim and one (1) final.

Standing Offers, prequalified supplier arrangements and multi-year operational services agreements will include at minimum an interim evaluation annually and a final evaluation at the end of the contract term. Seasonality will be considered when scheduling the interim evaluation for operational services agreements (ie/ winter works, grass mowing, etc.)

Interim evaluations should be presented to the vendor at the mid-point of the contract or at a significant project milestone (e.g. preliminary design phase completion), agreed upon prior to the start of the work. If the date of the milestone should move due to modifications to the project schedule, the interim evaluation date should move as well, unless that would mean a vendor would go a full calendar year without an evaluation. If this date is revised, please ensure the appropriate notification is sent to the Procurement Lead.

Project Managers will complete interim evaluations in the e-sourcing solution. In the case of overall interim scores below 50%, the Manager will also review and approve the interim

evaluation. Once the Manager(s) have reviewed and approved the scores (if required), they will be published in the e-sourcing solution. An email notification will be sent to the vendor from the solution advising them that an interim evaluation has been posted. The vendor may then log into the solution and view their interim score. The vendor may request a meeting with the Project Manager to review the interim evaluation.

Interim evaluation scores do not form part of the final evaluated score and cannot be appealed by the vendor. Interim evaluation results should be discussed with the vendor at a meeting scheduled by the Project Manager. Any revisions requested by the vendor and agreed to by the Project Manager will require a withdrawal and modification of the existing evaluation in the e-sourcing solution to reflect the revised score. Once the interim evaluation is complete, a PDF copy should be saved from the e-sourcing solution and stored in the project file.

If a Project Manager is leaving a project, it is recommended that an interim evaluation will be conducted with the presence of both the current and future Project Manager to ensure a consistent transition. There are situations when completing an interim evaluation may not be feasible such as if the assignment has just begun and there is not enough information, or if the previous Project Manager is no longer available to complete the evaluation.

## **14.7 COMMUNICATING PERFORMANCE AT THE END OF THE PROJECT**

Prior to the final evaluation being published to the e-sourcing solution, the Project Manager is responsible for ensuring that the vendor is informed of the status of their performance. The nature of communication depends on the size, value, complexity, and specific requirements of the project.

Final evaluations of a vendor's performance are due as the project closes-out. The final evaluations are filled out using the e-sourcing solution and are like interim evaluations. Once the final evaluation has been completed and published, further discussion may take place between the vendor and the Project Manager for clarification of the evaluation. Any revisions presented by the vendor and agreed to by the Project Manager will require withdrawal of modification to the original evaluation. This will reduce the likelihood of the vendor initiating the appeals process.

The process for interim and final evaluations is the same, with the exception that vendors have the option to appeal a final evaluation. Overall scores that fall below 50% are reviewed and approved by the Manager. Once the scores have been reviewed and approved, they will be published in the e-sourcing Solution and an automated email notification will be sent to the vendor's registered contact email advising that an evaluation is available for their review. The vendor may then log into the e-sourcing solution and view their final score.

Project Managers are encouraged as to discuss vendor performance compared to expectations at a final meeting in advance of score publication. Holding a VPM close-out meeting will depend on the size, value, complexity, and specific requirements of the project. Regardless, the Project Manager is responsible for communicating the status of the final evaluation with the vendor and welcome a final meeting if necessary.

The final evaluation will be stored in the e-sourcing solution and counts towards the vendor's total performance score.

## 14.8 REOPENING EVALUATIONS

Project Managers may need to re-open published evaluations. Some examples for needing to re-open evaluations could include:

- Design errors and omissions that came to light during construction and/or during the design phase;
- Resolution of claims;
- Issues that arose after assignment completion; and/or
- Revising scores based on performance discussion with the vendor at the close-out meeting.

If necessary, Project Managers should advise their Manager that there is a need to re-open an evaluation and the rationale for doing so. If an evaluation is re-opened for the purpose of revising the score, the original evaluation will need to be withdrawn and modified. The vendor will receive a notification from the e-sourcing solution when an evaluation has been withdrawn, and another when the revised evaluation has been published again. Upon review, vendors will have the opportunity to accept or appeal the revised score.

## 14.9 REQUIRED DOCUMENTATION

Maintaining satisfactory project documentation is key to successful contract administration and project management. These documents will assist with communicating and evaluating performance.

The e-sourcing solution allows users to attach documents to support an evaluation. At a minimum, the following documents **must** be attached to the evaluation within the e-sourcing solution (in addition to being stored in the Department's project file):

- Change Orders that document a change to the project's scope of work, agreement, or risk status.
- Any Notices of Safety Violations
- Any issued Letter(s) of Non-Conformance (if applicable)
- Any issued Letter(s) of Non-Performance (if applicable)
- Any issued Letter(s) of Default (if applicable)
- Any document(s) that support the final evaluation decision

Supporting documentation is mandatory in the e-sourcing solution for evaluation ratings below 50%. After the evaluation is approved and published, all documents posted to the e-sourcing solution will be visible to the vendor being evaluated.

The following documents may be used to support VPM evaluations. They should be stored in the Department's project file, but do not need to be uploaded to the e-sourcing solution or shared with Procurement unless requested:

- Internal and external correspondence (emails and letters)
- Project kick-off/pre-construction/progress meeting agendas and minutes, including all issues discussed, decisions made, issues unresolved and action items assigned; records of minutes shared with all parties.
- Progress reports
- Project diaries which record the significant events of the day

- Inspection and laboratory/quality assurance reports
- Photographs and video
- Consultant's proposal and/or proposed work plan showing resources and Work Breakdown Structure (WBS) elements
- Consultant's Term of Reference
- Construction schedules
- Cash flow forecasts
- Project deliverables and rejected project deliverables.

Final versions of all evaluations conducted over the life of the project should be saved in PDF format from the e-sourcing solution and stored in the vendor performance folder of the project file on the shared drive.

#### **14.10 APPEAL PROCESS**

After the final evaluation is with the Vendor, vendors may appeal their final evaluation. Any final score may be appealed or contested. The Vendor must submit the appeal within 20 days of the Vendor performance score being posted to the e-sourcing solution. Interim evaluations cannot be appealed. The appeal will validate the information provided by the Vendor in the appeal rather than reperform the entire evaluation. If new information is brought to light by the Vendor that changes the evaluation, scores will be amended. Scores may be either positively or negatively impacted by the review.

Only one appeal may be submitted per performance evaluation, but the appeal may include multiple score impacts.

Appeals will be facilitated by Procurement, with the cooperation of the Project Manager and where appropriate the Department Manager or Director. Project Managers may be asked to prepare documentation to support the appeal process.

Project Managers and Procurement have 15 calendar days in which to respond to an appeal. Depending on the complexity of the appeal, an additional 15 calendar days (for a total of 30 days) may be granted by the Director of Procurement.

When submitting an appeal, Vendors must include the rationale for each item of the appeal, specific to the evaluation category they are appealing and if available, supporting documentation to support the potential amendment of their score. If one or more categories is appealed, appropriate rationale and supporting documentation must be submitted. If rationale and (where possible) supporting documentation has not been submitted for a specific category then that category shall not be reviewed.

Prior to making a decision HRM may, at its sole discretion hold a meeting with the Vendor in relation to their appeal. The meeting will provide HRM an opportunity to ask questions of the Vendor and/or to allow the Vendor an opportunity to clarify the information in their appeal. It is not an opportunity for the Vendor to provide new information or give a presentation. New information is to be provided in writing only as part of the appeal process. Attending a meeting is not mandatory for the Vendor, but if a meeting is offered, Vendors are encouraged to attend.

HRM's decision related to an appeal is final.

#### **14.11 BIDDING IMPACTS**

Bidding Impacts become effective January 1, 2025

For RFQ, RFP and Invitation to Tender evaluations in competitive procurements, the Overall Vendor Performance Rating may be weighted at a value of between 5 to 25 percent of the overall bid evaluation score, as determined by HRM

Vendors have never been evaluated by HRM staff will be considered to have 100% of the available Vendor Performance score.

In addition to 4.1 above, HRM may also use Overall Vendor Performance Ratings for other Procurement purposes, including to pre-qualify vendors and as mandatory evaluation criteria. Overall Vendor Performance Ratings may also be considered as part of the decision-making process during Alternative Procurement contracting.

At the sole discretion of HRM, vendors who receive two or more consecutive Final Vendor Performance Ratings below 50% may be disqualified from bidding on HRM projects for a period not exceeding five (5) years, per Section 37 of the Procurement Policy.

## Appendix A – Vendor Performance Scoring Protocol (Overall Scores)

<b>Rating</b>	<b>Points</b>	<b>Description of Rating</b>
Exceptional	99 to 100	Vendor completed the contract in accordance with the contract terms and performance for the criteria was well above expectations. Innovation and/or “value added” was provided to HRM.
Good	80 to 98.9	Vendor completed and performed the terms of their contract and performance for the criteria was above expectations.
Satisfactory	60 to 79.9	Vendor met the contract obligations and performance for the criteria was met but did not exceed expectations
Unsatisfactory with Minor Concern	40 to 59.9	Vendor did not meet one or more terms of the contract and/or other factors related to the criteria under the vendor’s control hindered the full success of the contract.
Unsatisfactory with Major Concern	20 to 39.9	Vendor did not meet a material term or number of contractual terms/requirements related to the criteria. HRM intervention was required to successfully complete the contract.
Unacceptable	0 to 19.9	Vendor did not meet a material term or number of contractual terms/requirements and failed to rectify the breach or deficiency or did not do so in a timely manner.
Not Applicable	N/A	KPI is not relevant to contract and no weight is affected to the Vendor Performance Score.

## Appendix B: Key Performance Indicators and Criteria

### A. PROFESSIONAL CONSULTING SERVICES (ARCHITECTURE AND ENGINEERING)

#### **KPI: QUALITY OF DELIVERABLES**

- Contract deliverables are concise, complete, accurate, and provide required level of detail with regards to elements such as, but not limited to: Pre-Design, Schematic Design, Design Development, Construction Documents, and Pre-Tender.
- The Consultant is responsive regarding owner project input, communicating updates on deliverables as required.
- Cost estimates are within the accuracy range for the prescribed estimate class.
- The project is constructible as tendered.
- The Consultant manages errors and omissions: issues accurate specifications and drawings that result in minimal amendments and change orders during the construction phase due to errors and omissions. Addenda are clear and concise, properly referencing specification documents and drawings as required.

#### **KPI: QUALITY OF DESIGN/SAFETY**

- Are there any safety violations (such as WCB and OHS notices) during the project.
- Each stage of the design meets basic legislative requirements, codes and standards related to safety, accessibility, and community needs.
- The Consultant provides a final product that functions (i.e., effective, economical, efficient, safe, convenient, easy to operate and maintain including engineering and architectural support and service) for program users in accordance with requirements.
- The Consultant provides an effective technical concept, which meets the project's environmental requirements, including sustainable design criteria; addresses any compliance issues with the Technical Design Requirements within required timeframes.

#### **KPI: MANAGEMENT**

- No substitutions to key resources, or any substitutes thereto have been vetted and approved by HRM in accordance with requirements.
- The Consultant manages and facilitates good quality control and inspection process as required: provides timely field reviews, site monitoring/reviews and reporting as required. Expedient review of shop drawings (where applicable to the work) and submissions following HRM's stated format.
- The Consultant is responsive in managing the contract elements and communicating updates as required.
- The Consultant provides proficient contract administration (accurate, organized, effective, practical adherence to the contractual obligations and procedures) as required.
- The Consultant works well with stakeholders and engages the public as required, escalating issues for additional monitoring. Assists Infrastructure with preventing and resolving site problems, claims, or disputes.
- The Consultant demonstrates effective relationship management and coordination of sub-consultants, contractors, and suppliers (if applicable), showing leadership, efficiency, fairness, ensuring positive, professional relationship skills in working with

HRM staff and clients as required.

**KPI: SCHEDULE**

- The project was completed on time (as adjusted where applicable). The Consultant met required milestones and deliverables, provided on schedule delivery of services at every stage of the project (including, but not limited to: contract acceptance procedures completed; schedule of schematic design, design development, tender drawings and specifications; provide cost estimates at each stage; effectively processes change orders; provides operation & maintenance manuals; efficiently approve of shop drawings, warrant inspections, and post occupancy documentation received).
- The Consultant provides adequate/appropriate time for HRM to review contract deliverables in accordance with requirements.

**KPI: COST**

- Contract amendment requests comply and align with contract requirements, account for items included in scope, and maximize time value while minimizing cost.
- Invoices and change orders comply with requirements and align with the work.
- The professional services contract was completed on budget.

## **B. CONSTRUCTION SERVICES**

### **QUALITY**

- Deliverables are provided as required. Responds to noted deficiencies, corrections are made quickly. Work is completed to the quality standards outlined in the contract. Testing and inspections allow for time to correct deficiencies.
- On-site during construction to review work for quality and to ensure all tests and inspections are completed as required.
- Accurate contract documents are submitted to HRM on time and as required, such as shop drawings, requests for information, progress invoices (draws), schedule of values, change orders, "as built" and O&M manuals. (as applicable)

### **MANAGEMENT**

- Builders Lien Act claims are resolved (if applicable) and have minimal impact to the project schedule and/or cash flow. Payment to subcontractors is made promptly, and Statutory Declaration is signed.
- Maintains qualified staff, tools, and resources. Effectively manages and coordinates subcontractors and/or subconsultants.
- Addresses changes and communicates issues promptly with the owner as required. Responds to requests and changes according to required timeframes and is accessible when contacted (for items such as, but not limited to field changes, requests for information or updates, financial requests (e.g. accruals/invoices).
- Contractor is able to manage the commissioning process as required to complete the work. (if applicable)
- Manages the project in accordance with meeting all contract requirements.

### **SCHEDULE**

- Submits a baseline schedule with clearly defined milestone dates.
- Contract work is completed on time and contractor meets scheduled milestones and deliverables. Provides schedule updates as required and mitigates the effects of changes on the schedule. The contractor is competent at daily work planning. 'Look ahead' schedule is accurate.

### **COST**

- Submitted change order requests are supported by factual evidence (unsolicited change order requests are approved prior to submission).
- Change order costs are based on reasonable additional services provided. Contractor-requested change orders are accurate, detailed, and comply with contract requirements. Credits are identified and given.

### **SAFETY**

- Safety violations (such as WCB and OHS notices) during the project.
- General housekeeping of the worksite.

## **C: MANAGEMENT AND IT CONSULTING SERVICES** (including task based administrative and IT services)

### **QUALITY**

- The contractor provided qualified resources to meet all contract requirements.
- The resource(s) proposed in contractor's bid proposal performed all contractual work for the entire contract period.
- No substitutions were requested by HRM for performance related issues during the contract period.
- Where resources were substituted by the contractor, the substituted resource(s) had equivalent or greater qualifications and experience as those originally proposed.
- the assigned resources performed all contractual work for the entire contract period.

### **TECHNICAL SPECIFICATIONS AND STANDARDS**

- Deliverables were compliant with the contract technical requirements and applicable standards and certifications.
- Deviations and deficiencies were identified, and appropriate action was taken.

### **DOCUMENT QUALITY**

- The content of the documents addressed all contract requirements.
- The level of detailed provided within documents was appropriate, without missing or extraneous information.
- The quality of drafting documents, including clarity, grammar, completeness, and consistent use of technical terms, met, or exceeded expectations.
- The format of documents follows the provided templates, and guidelines as applicable.
- Minimal or no draft versions required revisions. Required revisions were minor, not extensive, and addressed promptly.

### **PROJECT MANAGEMENT**

- Contractor provided a schedule that was reasonable and in accordance with contract requirements.
- Contractor performed detailed and effective progress monitoring and notification of changes to the project schedule in a timely manner.
- issue identification and mitigation were effective with minimal or no delays to the project schedule that were attributable to the contractor
- proactive and collaborative improvements to project efficiency were made throughout the contract, moderately reducing completion time of the overall project.

### **COMMUNICATION AND RELATIONSHIP MANAGEMENT**

- The contractor is consistent and proactive in their communications, provides clear and comprehensive information, and timely progress updates.
- The contractor is proactive and effective in responding to and resolving any issues (for example, shipment delays, quality defects). Contracting and project authorities are informed of risks and issues and provided with corrective action plans in a timely manner. Any issues are resolved or effectively contained by the contractor.
- The contractor maintains and coordinates effective professional relationships with all contract stakeholders.
- The contractor demonstrates agility, openness, collaboration, and cooperation in coordinating activities and in responding to inquiries and requested changes to deliverables quickly.
- The contractor manages contract work independently, including following through on agreed upon action items, decisions, and commitments, without excessive guidance, oversight or intervention required.

- The contractor demonstrates commitment to improving contract outcomes

## **D: GOODS**

### **DEFECTS**

- No defective items and all items were delivered in accordance with the contract.
- Defects were not severe.
- The number of defective items was not severe.
- Corrective actions were timely and effective (i.e./ replacement of items, vendor identification of root causes and addressing the underlying issues)

### **ORDER FULFILLMENT AND DELIVERY**

- Deliveries were on time, complete (no unexpected backorders), and accurate (no missing items, no incorrect items)
- When backorders did occur a small number of items were affected and the reason for backorders were outside the control of the supplier
- Deliveries contained the correct quantities as prescribed in the purchase order (excluding backorders). Invoices and packing slips are on time, accurate, and complete in accordance with the basis of payment and invoicing instructions included in the contract.
- Timeliness and effectiveness of mitigating and corrective actions was high (for example, advanced notification of delays, schedule adjustments, identifying and addressing the underlying issue)

### **COMMUNICATIONS AND RELATIONSHIP MANAGEMENT**

- The contractor is consistent and proactive in their communications, including order acknowledgements, provides clear and comprehensive information, and timely progress updates.
- The contractor is proactive and effective in responding to and resolving any issues (for example, shipment delays, quality defects). HRM contracting and project staff are informed of risks and issues and provided with corrective action plans in a timely manner. Any issues are resolved or effectively contained by the contractor.
- The contractor demonstrates adaptability, openness, collaboration, and cooperation in coordinating activities and in responding to inquiries and requested changes to deliverables quickly.
- The contractor manages contract work independently, including following through on agreed upon action items, decisions, and commitments, without excessive guidance, oversight or intervention required.
- The contractor demonstrates commitment to improving contract outcomes by acknowledging performance areas of weakness, taking corrective action, and providing valuable input for process improvement, where applicable.

## **E: OPERATIONAL SERVICES**

### **QUALITY**

- Maintains qualified staff, tools, and resources. Effectively manages and coordinates subcontractors.
- Addresses changes and communicates issues promptly with the owner as required. Responds to requests and changes according to required timeframes and is accessible when contacted (for items such as, but not limited to field changes, requests for information or updates, financial requests (e.g. accruals/invoices).
- Equipment used in the delivery of the services is as stated in the contract, clean and properly maintained.
- Service deficiencies are resolved in a timely manner acceptable to HRM. Callbacks are limited.
- The contractor provides sufficient Supervision to on-site staff and requires limited guidance from HRM.
- Service delivery procedures and quality are as outlined in the contract (which may include, but are not limited to insurance certificates, cost breakdown, waste management plan, schedule, labour rates, proposed change quotations, invoices, requirement/expectations for subcontractors).

### **COST**

- Submitted change order requests are supported by factual evidence (unsolicited change order requests are approved prior to submission).
- Change order costs are based on reasonable additional services provided. Contractor-requested change orders are accurate, detailed, and comply with contract requirements. Credits are identified and given.

### **SAFETY**

- There were no safety violations (such as WCB and OHS notices) during the project.
- General housekeeping of the workplace/worksite

## **14 PROCUREMENT RECORDS PROTOCOL**

### **14.1 PURPOSE**

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

### **14.2 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.

### **14.3 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.

### **14.4 THE PROJECT FILE**

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

- Copy of Approved Requisition Form or email direction including approval
- Documentation of Warranty Period for Construction services
- Material Correspondence and other records
- Notes and Minutes related to Negotiation (if applicable)
- Bid Evaluation Summary
- Bid Summary Scorecard
- Approved Award from Appropriate Authority (purchase order, standing offer, scheduling agreement or other agreement type)
- All Submissions including Bid Analysis
- Solicitation and all Addenda
- Notification of Award letter/email

- SAP Purchase Order number
- All contractually required documents (incl. WCB, Safety, etc) have been uploaded by supplier to BidsandTenders (where applicable)
- Copy of e-bonding (where applicable)
- Copy of executed contract
- Verification of Business Registration
- Award Summary
- Activity Log from HRM ebidding solution
- Standing Offer, Scheduling Agreement, or Framework Agreement
- A copy of all change orders and associated approvals

**TABLE 1 – PROCUREMENT METHODS AND POSTING TIMES (2024 AND 2025)**

	Procurement Methods				Posting Times		
	<ul style="list-style-type: none"> <li>• Informal Quotes;</li> <li>• Mutual Agreement</li> <li>• Call from Standing Offer or Roster</li> </ul>	<ul style="list-style-type: none"> <li>• Invitational Tendering</li> <li>• Call from Standing Offer or Roster</li> </ul>	<ul style="list-style-type: none"> <li>• Public Solicitation</li> <li>• Call from Standing Offer or Roster</li> <li>• Invitational Tendering (urgent requirement only)</li> </ul>	<ul style="list-style-type: none"> <li>• Public Solicitation</li> <li>• Call from Standing Offer</li> <li>• Limited Tendering via esourcing system (Per CETA regulations)</li> </ul>	Policy Threshold	CFTA Threshold	CETA Threshold
<b>GOODS AND SERVICES</b>	up to \$10,000 Department Responsibility	\$10,001 to \$25,000	\$25,000 to \$133,800	Over \$133,800	Minimum posting time for <b>under \$133,800</b> is 10 calendar days	Minimum posting time for <b>over \$133,800</b> is 10 calendar days. 21 calendar days is preferred	Minimum posting time for public solicitations <b>over \$353,300</b> is 25 calendar days
<b>CONSTRUCTION</b>	up to \$10,000 – Department Responsibility	\$10,001 to \$25,000	\$25,000 to \$334,400	Over \$334,400	Minimum posting time for <b>under \$334,400</b> is 10 calendar days	Minimum posting time for <b>over \$334,400</b> is 10 calendar days. 21 calendar days is preferred	Minimum posting time for public solicitations <b>over \$8,800,000</b> is 25 calendar days