



Procurement Policy and Protocols Manual

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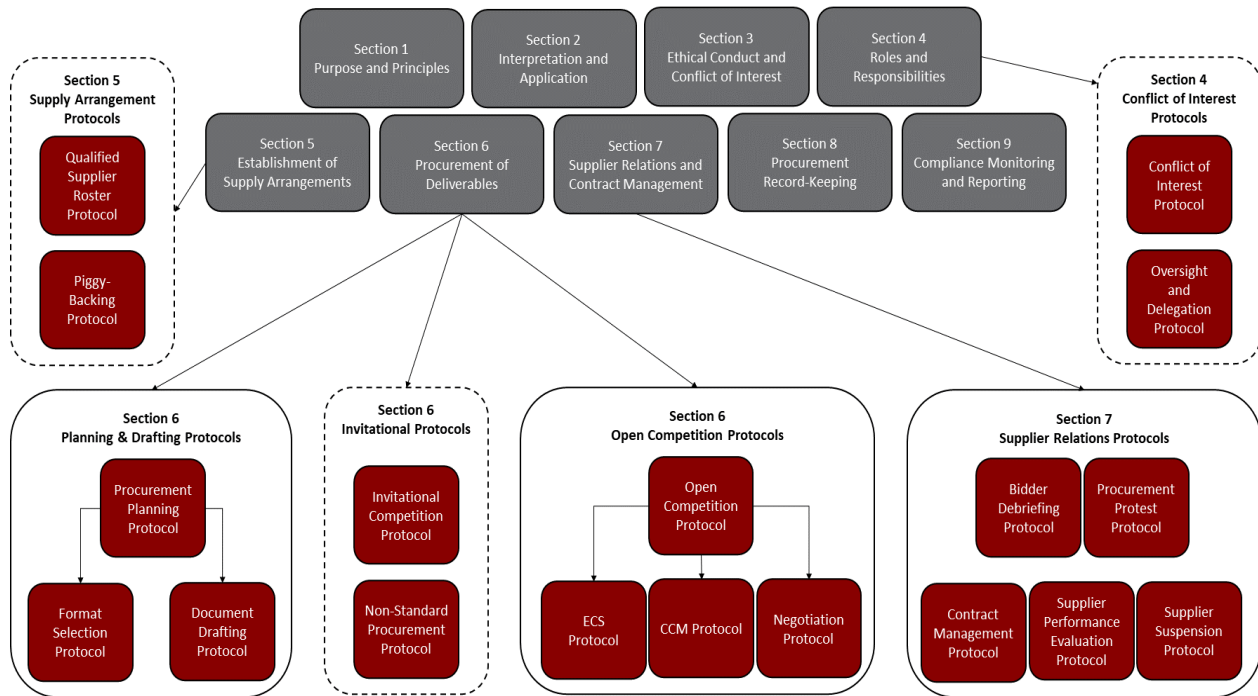
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PROCUREMENT MANUAL ARCHITECTURE



PROCUREMENT POLICY

SECTION 1 – PURPOSE AND PRINCIPLES

1.1 Purpose

The purpose of this policy is to detail the principles, procedures, roles, and responsibilities for the City's Procurement operations.

1.2 Principles

The City is committed to conducting its Procurement operations in accordance with the following principles:

- (a) compliance and consistency with applicable legislation, trade agreements, policies, and procedures;
- (b) open, fair, and transparent processes that afford equal access to all qualified Suppliers;
- (c) reciprocal non-discrimination and geographic neutrality with respect to its trading partners in accordance with trade treaty obligations;
- (d) achieving best value through consideration of the full range of Procurement formats and the adoption of commercially reasonable business practices;
- (e) effective balance between accountability and efficiency; and
- (f) ensuring adherence to the highest standards of ethical conduct.

SECTION 2 – INTERPRETATION AND APPLICATION

2.1 Defined Terms

Terms used in this policy are defined in the following Glossary of Terms.

GLOSSARY OF TERMS

"Bid" means a submission in response to a Solicitation Document, and includes proposals, quotations, or responses.

"Bidder" means a Supplier that submits a Bid, and includes proponents and respondents.

"City" means The Corporation of the City of Sarnia

"Competitive Process" means the solicitation of Bids from multiple Suppliers.

"Conflict of Interest" means:

- (a) when applied to the activities of the City and its consultants and service providers: (i) a conflict between one's private interests and one's public,

fiduciary, or contractual duties in relation to any procurement activity; or
(ii) engaging in any conduct that may give another party an unfair advantage in a procurement process; or

- (b) in relation to a bidding process, a Bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to: (i) having, or having access to, confidential information of the City in the preparation of its Bid that is not available to other Bidders; (ii) having been involved in the development of the Solicitation Document, including having provided advice or assistance in the development of the Solicitation Document; (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the Solicitation Document; (iv) communicating with any person with a view to influencing preferred treatment in the bidding process (including, but not limited to, the lobbying of decision-makers involved in the bidding process); or (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive bidding process or render that process non-competitive or unfair; or
- (c) in relation to the performance of its contractual obligations, a Supplier's other commitments, relationships, or financial interests: (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

“Contract” means a commitment by the City for the Procurement of Deliverables from a Supplier, which may be evidenced by an agreement executed by the Supplier and the City, or a Purchase Order issued by the City to the Supplier.

“Contract Administrator” means an employee assigned to the management of a Contract.

“Deliverables” means any goods, services, or construction, or combination thereof.

“Department” means the branch, division, or unit of the City that is requisitioning the purchase of the Deliverables.

“Department Manager” means an individual officer or employee who is responsible for a specific Department.

“Department Lead” means the Department employee assigned primary responsibility for a procurement.

“Designate” means the member of staff authorized by the Chief Administrative Officer or Department Heads to act on their behalf.

“Invitational Competition” means a Competitive Process in which an invitation to submit Bids is issued to at least three Suppliers.

“Legal Services” means the City’s legal advisors.

“Low-Value Procurement” means any Procurement of Deliverables with a value below the Low-Value Procurement Threshold set out in the Procurement Policy, except where the Procurement is made through an existing Standing Offer or Qualified Supplier Roster.

“Low-Value Procurement Threshold” means the maximum value for a Procurement of Deliverables that the City may procure without proceeding with an Open Competition.

“Master Framework Agreement” means a master agreement entered into between the City and the prequalified Suppliers that have been included on a Qualified Supplier Roster.

“Non-Standard Procurement” means the acquisition of Deliverables through a process or method other than the standard method required for the type and value of the Deliverables. Non-standard Procurement methods include:

- (a) acquiring Deliverables directly from a particular Supplier without conducting a Competitive Process when an Invitational Competition or an Open Competition would normally be required; and
- (b) soliciting Bids from a limited number of Suppliers without conducting an open prequalification process when an Open Competition would normally be required.

“Open Competition” means the solicitation of Bids through a publicly posted Solicitation Document.

“Open Competition Threshold” means the minimum value for a Procurement of that the City must procure using an Open Competition.

“Open Framework Competition” means the Competitive Process used to establish a Qualified Supplier Roster and provide for an ongoing application process during the term of the Qualified Supplier Roster, as further described in the Qualified Supplier Roster Protocol.

“Performance Evaluation Report” means a report evaluating a Supplier’s performance in accordance with the Supplier Performance Evaluation Protocol.

“Procurement” means the acquisition of Deliverables by purchase, rental, or lease.

“Procurement Plan” means the plan developed by a Department at the outset of an Invitational Competition or Open Competition in accordance with the Competitive Procurement Planning Protocol.

“Procurement Oversight Committee” (“POC”) means the committee established by the City under the Procurement Policy for the purposes of providing procurement-related oversight and making determinations on procurement-related matters.

“Procurement Services” means the branch, department, division, or unit responsible for purchasing Deliverables for the City.

“Procurement Supervisor” means the individual officer or employee who is responsible for Procurement Services.

“Procurement Value” means the maximum total value of the Deliverables being procured, and it must include all costs to the City, including, as applicable, acquisition, maintenance, replacement, and disposal; training, delivery, and installation; and extension options, less applicable rebates or discounts and exclusive of sales taxes.

“Purchase Order” means the City’s written document issued by a duly authorized employee of the City to a Supplier formalizing all the terms and conditions of the purchase and supply of the Deliverables identified on the face of the Purchase Order.

“Purchasing Card” means a credit card provided by the City to authorized officers and employees for use as a payment method to purchase directly from Suppliers where permitted under the Procurement Policy and in accordance with any cardholder agreement and applicable procedures.

“Qualified Supplier Roster” means a list of Suppliers that have participated in and successfully met the requirements of a Request for Supplier Qualifications (“RFSQ”) and have therefore been prequalified to perform discrete work assignments involving the delivery of a particular type of deliverable. The Suppliers that qualify for inclusion on the Qualified Supplier Roster will enter into a Master Framework Agreement and will be eligible to participate in Roster Competitions, as and when the goods or services are required.

“Request for Information” or **“RFI”** means a market research initiative for the collection of data for the purposes of future Procurement planning.

“Roster Competition” means an expedited, invitational competition between Suppliers that have been included on a Qualified Supplier Roster for the selection of a Supplier to perform a discrete work assignment during the term of the roster.

“Solicitation Document” means the document issued by the City to solicit Bids from Bidders.

“Standing Offer” means a written offer from a pre-approved Supplier to supply Deliverables to the City, upon request, through the use of an ordering process during a particular period of time, at a predetermined price or discount, generally within a predefined dollar limit. The Standing Offer does not create a contractual commitment from either party for a defined volume of business. The commitment to purchase against a Standing Offer is formed at the time a specific order is placed through the issuance of a Purchase Order to the Supplier.

“Supplier” means a person carrying on the business of providing Deliverables.

“Surety” means a form of insurance that provides a written guarantee that a Contract will be completed as specified and there will be a satisfactory settlement of any claim against the Contract.

“Total Cumulative Increase” means the total value of all increases to the original Procurement Value, including the value of all previously approved amendments and the value of the proposed amendment.

2.2 Application

This policy applies to the Procurement of all Deliverables with the exception of the exclusions set out below in 2.2.1 Excluded Acquisitions and Expenditures.

2.2.1. Excluded Acquisitions and Expenditures

Procurement includes the acquisition of Deliverables by purchase, rental, or lease.

This policy does not apply to:

- (a) Contracts or agreements for the sale, purchase, lease, or licence of land or existing buildings.
- (b) the acquisition of the following Deliverables:

- i. services provided by licensed lawyers or notaries valued under the applicable thresholds under the Comprehensive Economic and Trade Agreement;
 - ii. services of expert witnesses or factual witnesses used in court of legal proceedings;
 - iii. goods intended for resale to the public;
 - iv. goods purchased on a commodity market;
 - v. works of art;
 - vi. subscriptions to newspapers, magazines, or other periodicals; and
 - vii. conferences, courses, memberships, seminars, training and development, workshops, staff relations, or meal allowances.
- (c) Contracts or agreements relating to hiring of employees or employee compensation or reimbursement of employee expenses.
- (d) payment of the City's general expenses, when expenditures are under the trade treaty thresholds, such as:
- i. natural gas;
 - ii. hydro electricity;
 - iii. water and sewer;
 - iv. telephone services;
 - v. postage;
 - vi. cable television;
 - vii. internet service;
 - viii. vehicle licenses
 - ix. elevator licenses; and
 - x. radio licenses.

2.3 Authorization Schedule

The Council shall establish an Authorization Schedule as set out in the Oversight and Delegation Protocol establishing the authorities for:

- (a) initiating a procurement;
- (b) conducting a Procurement process and approving the award of a Contract;
- (c) issuing Purchase Orders and signing Contracts on behalf of the City; and
- (d) approving amendments to existing Contracts.

2.4 Procurement Protocols and Procedures

Procurement Services is responsible for developing and maintaining detailed protocols and procedures to support this policy. All procurements covered by this policy must be conducted in accordance with all applicable protocols and procedures.

2.5 Emergency Purchases

Notwithstanding any other provisions of this policy, where an emergency exists and prior approval of the Procurement Supervisor cannot be obtained, a Department Manager, or their Designate, may authorize any officer or employee to acquire required Deliverables in an expedited manner.

For the purposes of this policy, an emergency exists when an unforeseeable situation or event occurs that is a threat to any of the following:

- (a) public health and/or safety;
- (b) the maintenance of essential services;
- (c) the welfare of persons or public property; or
- (d) the security of the City's interests.

Situations of urgency resulting from the failure to properly plan for a Procurement do not constitute an emergency. When using this section, the General Manager, or their delegate, shall ensure that a formal contract and other required procurement records are created in accordance with the Non-Standard Procurement Protocol prior to contract performance or, where not feasible in cases of extreme urgency, as soon thereafter as is reasonably possible.

SECTION 3 – ETHICAL CONDUCT AND CONFLICTS OF INTEREST

3.1 Conduct and Conflicts of Interest

The City's Procurement activities must be conducted with integrity, and all individuals involved in the City's Procurement activities must act in a manner that is consistent with the principles and objectives of this policy.

All participants in a Procurement process, including any outside consultants or other service providers participating on behalf of the City, must declare any perceived, potential, or actual Conflicts of Interest and must recuse themselves from participating in any manner in a Procurement Process to which the perceived, potential, or actual conflict of interest applies unless that conflict has been properly mitigated in accordance with the Conflict of Interest Protocol.

For greater clarity, it is the responsibility of all members of Council to disclose any perceived, potential, or actual procurement-related Conflict of Interest and, when the conflict is raised by a member of Council, to address that conflict in accordance with the procedures established by Council. Where Council has established conflict procedures, those procedures shall apply to the declared conflict.

3.2 Supplier Conduct and Conflicts of Interest

The City requires its Suppliers to act with integrity and conduct business in an ethical manner.

All Suppliers participating in a Procurement process or providing Deliverables to the City must declare any perceived, potential, or actual Conflicts of Interest and must conduct themselves in accordance with the Supplier Code of Conduct set out below.

The City may refuse to do business with any Supplier that has engaged in illegal or unethical bidding practices, has an actual or potential conflict of interest or an unfair advantage, or fails to adhere to ethical business practices.

SUPPLIER CODE OF CONDUCT

The City requires its Suppliers to act with integrity and conduct business in an ethical manner. The City may refuse to do business with any Supplier that has engaged in illegal or unethical bidding practices, has an actual or potential conflict of interest or an unfair advantage, or fails to adhere to ethical business practices.

Suppliers are responsible for ensuring that any employees, representatives, agents, or subcontractors acting on their behalf conduct themselves in accordance with this Supplier Code of Conduct. The City may require the immediate removal and replacement of any individual or entity acting on behalf of a Supplier that conducts themselves in a manner inconsistent with this Supplier Code of Conduct. The City may refuse to do business with any Supplier that is unwilling or unable to comply with such requirement.

A. Illegal or Unethical Bidding Practices

Illegal or unethical bidding practices include:

- (a) bid-rigging, price-fixing, bribery or collusion, or other behaviours or practices prohibited by federal or provincial statutes;
- (b) offering gifts or favours to the City's officers, employees, appointed or elected officials, or any other representative of the City;
- (c) engaging in any prohibited communications during a Procurement process;
- (d) submitting inaccurate or misleading information in a Procurement process; and
- (e) engaging in any other activity that compromises the City's ability to run a fair Procurement process.

The City will report any suspected cases of collusion, bid-rigging, or other offences under the *Competition Act* to the Competition Bureau or to other relevant authorities.

B. Conflicts of Interest

All Suppliers participating in a Procurement process must declare any perceived, potential, or actual conflicts of interest.

The term "conflict of interest," when applied to Suppliers, includes any situation or circumstance where:

- (a) in the context of a Procurement process, the Supplier has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to:
 - i. having, or having access to, confidential information of the City that is not available to other Suppliers;
 - ii. having been involved in the development of the Procurement document, including having provided advice or assistance in the development of the Procurement document;

- iii. receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the Procurement document;
 - iv. communicating with any person with a view to influencing preferred treatment in the Procurement process (including but not limited to the lobbying of decision-makers involved in the Procurement process); or
 - v. engaging in conduct that compromises, or could be seen to compromise, the integrity of an open and competitive Procurement process or render that process non-competitive or unfair; or
- (b) in the context of performance under a potential Contract, the Supplier's other commitments, relationships, or financial interests:
- i. could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgment; or
 - ii. could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

Where a Supplier is retained to participate in the development of a Solicitation Document or the specifications for inclusion in a Solicitation Document, that Supplier will not be allowed to respond, directly or indirectly, to that Solicitation Document.

C. Ethical Business Practices

In providing Deliverables to the City, Suppliers are expected to adhere to ethical business practices, including:

- (a) performing all Contracts in a professional and competent manner and in accordance with the terms and conditions of the Contract and the duty of honest performance;
- (b) complying with all applicable laws, including safety and labour codes (both domestic and international as may be applicable); and
- (c) providing workplaces that are free from harassment and discrimination.

SECTION 4 – ROLES AND RESPONSIBILITIES

4.1 Role and Responsibilities of Council

It is the role of Council to establish policy and approve expenditures through the City's budget-approval process. Through this policy, Council delegates to the City's officers and employees the authority to incur expenditures in accordance with approved budgets through the Procurement of Deliverables in accordance with the rules and processes set out in this policy and applicable protocols and procedures. Council may provide strategic direction and guidance on major projects prior to the commencement of the Procurement process; however, Council will not generally be involved in the day-to-day Procurement operations or individual Procurement processes, except to the extent that the approval of Council is required under this policy or in the event that an exception to this policy is required.

4.2 Roles and Responsibilities of Officers and Employees

Specific responsibilities pertaining to all stages of a Procurement process, from the initial identification of requirements through to the management of Contracts with Suppliers, are detailed in this policy and applicable protocols and procedures. In addition to those specific responsibilities, the general roles and responsibilities delegated to the City's officers and employees are set out below.

4.2.1 Procurement Supervisor

It is the role of Procurement Services to lead the City's Procurement operations. In fulfilling this role, the Procurement Supervisor, or Designate, is responsible for:

- (a) ensuring the consistent application of this policy and the provision of Procurement services to the Departments efficiently and diligently;
- (b) in collaboration with Departments and in co-ordination with the Procurement Oversight Committee, developing an annual procurement plan to help facilitate proactive procurement planning across the organization and to help identify major projects requiring the creation of project-specific oversight steering committees;
- (c) developing Procurement strategies and continually analyzing business requirements and spending patterns to identify opportunities for more strategic sourcing, including the creation of new Qualified Supplier Rosters to consolidate purchasing opportunities and to reduce instances of emergency procurements and Non-Standard Procurements;
- (d) monitoring and reporting non-compliance and Conflicts of Interest in accordance with this policy;

- (e) researching, developing, maintaining, updating, and communicating Procurement protocols, procedures, and templates;
- (f) addressing any issues or concerns that arise in respect of a Procurement process and seeking guidance, support, and advice of Legal Services, as required; and
- (g) developing an annual procurement training plan for the organization and providing appropriate orientation, training, and tools to employees involved in Procurement activities.

4.2.2 Department Managers

It is the role of the Departments to ensure that their requirements for Deliverables are met in accordance with the principles and objectives of this policy. In fulfilling this role, Department Managers are responsible for ensuring that their Department complies with this policy and all applicable protocols and procedures, encouraging sound Procurement practices and ensuring the provision of appropriate education and training to employees involved in Procurement activities.

Department Managers will be held accountable for any decision to proceed with a Procurement process or transaction that is not conducted in accordance with this policy or does not have the approval of Procurement Services.

4.2.3 Department Employees

Employees of all Departments are responsible for complying with this policy. Department employees involved in Procurement activities must understand their obligations and responsibilities under this policy and all applicable protocols and procedures, and they should consult with Procurement Services in respect of any questions regarding the application or interpretation of this policy or any relevant procedures.

4.2.4 Procurement Services Employees

Employees of Procurement Services are responsible for complying with this policy and ensuring this policy and all protocols and procedures are applied consistently. Procurement Services employees must understand their obligations and responsibilities under this policy and all applicable protocols and procedures, and they should consult with the Procurement Supervisor in respect of any questions regarding their application or interpretation.

4.2.5 Legal Services

It is the role of Legal Services to provide legal advice and assistance on the City's Procurement activities and its relationships with Suppliers. In fulfilling this role, Legal Services is responsible for:

- (a) advising the Procurement Supervisor as required on legal issues arising from Procurement activities and reviewing and approving specific Solicitation Documents and related documentation referred for legal review by the Procurement Supervisor;
- (b) providing advice on the finalization of Contracts and agreements and reviewing and advising on proposed changes to the City's standard terms and conditions, legal agreements, and Solicitation Document templates; and
- (c) providing legal advice and counsel to the City in the event of a Contract dispute or legal challenge flowing from a Procurement process.

4.3 Procurement Oversight Committee

The City will establish a Procurement Oversight Committee ("POC") for the purpose of:

- (a) making determinations in relation to Conflicts of interest and supplier suspensions in accordance with: (i) the Conflict of Interest Protocol; and (ii) the Supplier Suspension Protocol;
- (b) monitoring for non-compliance in accordance with Section 9 – Compliance Monitoring and Reporting; and
- (c) providing input on other Procurement matters that may be referred to it by the Procurement Supervisor.

The POC will include the Procurement Supervisor and at least two other senior-level officers or employees of the City, and for the purposes of the Oversight and Delegation Protocol, will also include the Department Manager responsible for the specific Procurement in question. Legal Services will provide guidance and advice to the POC, as required.

SECTION 5 – ESTABLISHMENT OF SUPPLY ARRANGEMENTS

5.1 Recurring Requirements

Before initiating a procurement, Departments must consider the availability of existing supply arrangements. 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 Services about the possibility of establishing a Standing Offer or Qualified Supplier Roster.

5.2 Standing Offers

Standing Offers may be established for standardized Deliverables to be purchased by all Departments, where:

- (a) the requirements for Deliverables are recurring and predictable over an extended period of time;
- (b) the requirements are standard and clearly defined at the time of establishment of the Standing Offer; and
- (c) it is possible to fix pricing for the Deliverables for the duration of the Standing Offer.

The establishment of a Standing Offer does not create a contractual commitment to procure Deliverables from the Supplier. The commitment to purchase against a Standing Offer is formed at the time a specific order is placed through the issuance of a Purchase Order to the Supplier.

The Procurement Supervisor is authorized to establish Standing Offers through an Open Competition. The Open Competition will be managed by Procurement Services, with the co-operation and involvement of subject-matter experts from the relevant Department(s). If multiple Standing Offers are established for the same goods or services, clear ranking methodologies and call-up procedures must be specified.

5.3 Qualified Supplier Rosters

Qualified Supplier Rosters may be established to prequalify Suppliers that will be eligible to compete for discrete work assignments involving the delivery of a particular type of Deliverables, as and when required.

The establishment of a Qualified Supplier Roster does not create a contractual commitment to procure Deliverables from any of the Suppliers. When Deliverables are required, a Roster Competition will be conducted for the purposes awarding a contract to one of the qualified Suppliers.

The Procurement Supervisor is authorized to conduct Open Framework Competitions to establish Qualified Supplier Rosters. The Open Framework Competition will be managed by Procurement Services, with the co-operation and involvement of the Department(s), in accordance with the Qualified Supplier Roster Protocol.

5.4 Co-operative Purchasing

The City may participate in co-operative or joint purchasing initiatives with other entities where such initiatives are determined to be in the best interests of the City. If the City participates in such co-operative or joint purchasing initiatives, the City may adhere to the policies of the entity conducting the purchasing process, provided that such policies comply in spirit with this policy. If the City is leading a co-operative or joint purchasing initiative, this policy will be followed.

When engaging in co-operative purchasing, the City, and more specifically the Department Manager, shall adhere to the Piggy-Backing Protocol.

SECTION 6 – PROCUREMENT OF DELIVERABLES

6.1 Procurement Planning

Effective Procurement planning is essential to ensuring an effective result and to limiting risk to the City. Departments must ensure that they leave sufficient time to plan for a procurement, including time for:

- (a) developing proper specifications and business requirements;
- (b) obtaining internal reviews;
- (c) conducting a Competitive Process, as required; and
- (d) obtaining necessary approvals.

Departments must follow the Procurement Planning Protocol.

6.2 Market Research

Where the Department is uncertain about the Deliverables required or where there is insufficient internal knowledge about the market, the Department must consult with Procurement Services about conducting a Request for Information ("RFI") process. Where it is determined that an RFI would assist in planning for a future procurement, an RFI process must be openly posted in order to gather market research from prospective Bidders. It must not be used as a prequalification tool.

6.3 Procurement Value

It is important to accurately estimate the value of the Procurement to determine the appropriate Procurement method and ensure compliance with the requirements of this policy. Departments must refer to the Procurement Planning Protocol for additional guidance on determining the Procurement Value.

6.4 Contract-Splitting

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 this policy is not permitted.

6.5 Initiating Procurement

Unless specifically permitted under this policy or the Procurement protocols or procedures, Departments are not permitted to procure Deliverables or engage with potential Suppliers regarding the Procurement of Deliverables without the involvement of Procurement Services. All procurements must be initiated in accordance with the Procurement Planning Protocol.

6.6 Procurement Authorization

Before any Procurement process begins, authorization of the Procurement and delegation of authority to procure must be obtained in accordance with the Authorization Schedule.

6.7 Standard Procurement Methods

Depending on the nature, value, and circumstances of the procurement, the City may procure Deliverables through the following standard Procurement methods. The various thresholds are set out below:

Procurement Thresholds

Table 1 – Low-Value Procurement Thresholds

Goods	Below \$24,999
Services	Below \$24,999
Construction	Below \$49,999

Table 2 – Invitational Competition Thresholds

Goods	\$25,000 to \$133,799
Services	\$25,000 to \$133,799
Construction	\$50,000 to \$334,399

Table 3 – Open Competition Thresholds

Goods	\$133,800 and above
Services	\$133,800 and above
Construction	\$334,400 and above

6.7.1 Existing Supply Arrangement

6.7.1.1 Ordering from Standing Offer

When a Standing Offer is available, its use is mandatory for all Departments. To purchase from the Standing Offer, the Department must submit a Procurement Authorization Form to Procurement Services. A purchase order referring to the Standing Offer details should be created and sent to the Supplier. The Purchase Order referencing the Standing Offer and reflecting the pre-negotiated prices and terms and conditions of the Standing Offer will be created and issued to the Supplier by the requisitioning Department.

6.7.1.2 Roster Competition

If the Deliverables are available under an existing Qualified Supplier Roster, they must be acquired through a Roster Competition.

Roster Competitions will be managed by Procurement Services, with the co-operation and involvement of the Department, in accordance with the Qualified Supplier Rosters Protocol.

6.7.2 Low-Value Procurement

Where the Procurement Value is below the Low-Value Procurement Threshold and the Deliverables are not covered under an existing Standing Offer or Qualified Supplier Roster, Departments may make Low-Value Procurements at their discretion.

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 and in accordance with the Qualified Supplier Rosters Protocol.

For Low-Value Procurements, the Department is only required to obtain one quote and may acquire the Deliverables using a corporate purchasing card or by submitting a Procurement Authorization Form to Procurement Services. Procurement Services will then provide the Department with a corresponding Purchase Order.

Where practical, departments are encouraged to obtain multiple quotes to ensure they are obtaining best value. Quotes may be obtained through advertisements or Supplier catalogues or by contacting the potential Supplier(s) by telephone or email.

The Department Manager is responsible and accountable for Low-Value Procurements and may authorize specific individuals within the Department to make Low-Value Procurements and may assign specific spending authority limits.

If a Department anticipates making multiple Low-Value Procurements of the same Deliverables and the total value of those purchases may exceed the applicable Low-Value Procurement Threshold, the department must contact Procurement Services to discuss the possibility of setting up a Standing Offer or Qualified Supplier Roster.

Procurement Services is available to assist Departments with Low-Value Procurements, and Departments may request that Procurement Services conduct an Invitational Competition for any Low-Value Procurement.

6.7.3 Invitational Competition

An Invitational Competition, in which Bids are solicited from a minimum of three Suppliers, is the standard method of Procurement when the Procurement Value is between the Low-Value Procurement Threshold and the Open Competition Threshold.

Invitational Competitions will be managed by Procurement Services, with the co-operation and involvement of the Department, in accordance with the Invitational Competition Protocol.

Procurement Services may delegate the authority to conduct an Invitational Competition to a Department, on either a standing basis or a case-by-case basis. Where a Department has delegated authority to conduct an Invitational Competition, the Department Manager is responsible and accountable for ensuring that the process is conducted in accordance with this policy and, more specifically, in accordance with the Invitational Competition Protocol.

Open Competition may be conducted in lieu of an Invitational Competition, where the Procurement Supervisor, in consultation with the Department, determines that it would be in the City's best interest.

6.7.4 Open Competition

An Open Competition, in which Bids are solicited from all interested Suppliers through a publicly posted Solicitation Document, is the standard method of Procurement when the Procurement Value equals or exceeds the Open Competition Thresholds.

Open Competitions must also be used to establish Standing Offers.

Open Competitions may include two-stage Procurement processes in which a prequalification process is conducted by soliciting and evaluating submissions from all interested Suppliers in order to establish a short list of prequalified Suppliers that will be eligible to submit a Bid in response to a second-stage Solicitation Document. A two-stage Procurement process may be used whenever determined appropriate by the Procurement Supervisor, in consultation with the Department.

Open Competitions will be managed by Procurement Services, with the co-operation and involvement of the Department, in accordance with this policy and, more specifically, in accordance with the Open Competition Protocol and the other protocols incorporated therein.

6.8 Non-Standard Procurement

Non-Standard Procurement means the acquisition of Deliverables through a method other than the standard method for the type and value of the Deliverables, as set out above under Section 6.7.

Non-standard Procurement methods include:

- (a) acquiring Deliverables directly from a particular Supplier without conducting a Competitive Process when an Invitational Competition or an Open Competition would normally be required; and
- (b) soliciting Bids from a limited number of Suppliers without conducting an open prequalification process when an Open Competition would normally be required.

The use of a Non-Standard Procurement process is permitted only under the specific circumstances approved by Procurement Services in accordance with the Non-Standard Procurement Protocol.

Under no circumstances will a Non-Standard Procurement be used for the purpose of avoiding competition among Suppliers or in a manner that discriminates against, or advantages Suppliers based on geographic location. For greater certainty:

- (a) the Department Manager will remain responsible for ensuring Open Competition, or at minimum, Invitational Competition, whenever feasible even in circumstances where direct awards would otherwise be recognized under the applicable trade treaties; and
- (b) the Conflict of Interest rules and Conflict of Interest Protocol will apply to all Non-Standard Procurements.

6.9 Contract Award and Finalization

Contracts must be awarded in accordance with this policy and the applicable protocol(s) governing the Procurement process and must be authorized in accordance with the Authorization Schedule.

A Contract may be entered into through the execution of a legal agreement and/or the issuance of a Purchase Order evidencing the contract. The Contract must be entered into prior to the delivery or provision of the Deliverables.

The Procurement Supervisor has delegated authority to issue Purchase Orders on behalf of the City. Agreements must be signed in accordance with the Authorization Schedule.

No Contract may be entered into, either through the issuance of a Purchase Order or the execution of an agreement, unless:

- (a) approved funding in an amount sufficient to cover the Procurement Value is available;
- (b) the Procurement process was conducted in accordance with this policy; and
- (c) applicable protocols and all required authorizations have been obtained.

SECTION 7 – SUPPLIER RELATIONS AND CONTRACT MANAGEMENT

7.1 Debriefings

Where the City has conducted an Open Competition, unsuccessful Suppliers may request a debriefing. Debriefings must be conducted in accordance with the procedures established by Procurement Services and in accordance with Bidder Debriefing Protocol.

7.2 Procurement Protests

Suppliers may formally protest the outcome of a Procurement process. Procurement protests must be managed and responded to in accordance with procedures established by Procurement Services and in accordance with the Procurement Protest Protocol.

7.3 Contract Management

All contracts for Deliverables must be managed by the Department in accordance with the Contract Management Protocol. Master Framework Agreements will be managed by Procurement Services in accordance with the Qualified Supplier Rosters Protocol.

7.4 Contract Extensions or Amendments

Contract extensions and amendments must not be used to expand a Contract beyond what was contemplated under the terms of the Contract and the original Procurement process or to circumvent the need to procure additional Deliverables through a Competitive Process in accordance with this policy.

If a Contract amendment results in a net increase to the Contract value previously approved, the amendment must be approved in accordance with the Contract Management Protocol and the Authorization Schedule.

7.5 Supplier Performance

The performance of a Supplier under Contract must be monitored by the Department in accordance with the Supplier Performance Evaluation Protocol.

7.6 Supplier Suspension

Suppliers can be suspended from participating in future Procurement processes in accordance with the procedures established by Procurement Services and in accordance with the Supplier Suspension Protocol.

SECTION 8 – PROCUREMENT RECORD-KEEPING

8.1 Supplier Information

The City must ensure that Supplier information submitted in confidence in connection with a Procurement process or Contract is adequately protected. Procurement Services and the Departments must ensure that all Bids and contracts are kept in a secure location and are only accessible by those individuals directly involved with the Procurement or management of the contract.

8.2 Procurement Records

The maintenance, release, and management of all Procurement records must be in accordance with the City's policies and procedures on document management and access to information.

Procurement Services is responsible for ensuring that all documentation relating to a Procurement is properly filed and maintained in a Procurement project file. Documentation and reports regarding Procurement processes and Contract awards (including Non-Standard Procurements) and data necessary to trace the process conducted electronically must be maintained for a minimum period of at least three years from the Contract award date, or such longer period as may be required under the City's document management policies.

SECTION 9 – COMPLIANCE MONITORING AND REPORTING

9.1 Compliance Monitoring

Non-compliance with this policy may expose the City to the risk of Supplier complaints, reputational damage, Bid disputes, and legal challenges, and may compromise the integrity, fairness, openness, and transparency of the process.

The Procurement Supervisor is responsible for monitoring compliance across the organization. Based on the results of compliance monitoring, reports outlining instances of non-compliance may be issued by the Procurement Supervisor to the relevant Department Manager. The Department Manager must address the identified compliance concerns and submit a written confirmation of actions taken to the Procurement Supervisor. Ongoing concerns with respect to compliance will be subject to internal audit and to the additional reporting requirements outlined herein.

9.1.1 Non-Compliance Defined

For the purposes of this section, non-compliance includes:

- (a) a breach of any purchasing card policies and procedures;
- (b) a breach of any codes of conduct involving a Procurement;
- (c) executing a purchase of any kind, including a new purchase, a purchase made through a contract amendment, or a purchase made under an expired contract, without first obtaining the necessary funding authorization and other applicable approvals;
- (d) commencing performance of a contract prior to the formal approval and execution of that contract;
- (e) directly awarding a contract, or engaging in restrictive tendering, in instances where open tendering is required, without first obtaining formal approvals for any such exception to open tendering practices;
- (f) obtaining procurement approvals based on inaccurate or incomplete information or based on material misrepresentations or omissions;
- (g) failing to adhere to requirements of procurement policies or protocols, including non-compliance relating to conflict of interest, proper advanced planning, contract splitting, sole sourcing, and recordkeeping; or
- (h) failing to adhere to the due process standards applicable to the government tendering process, including standards relating to transparency, procedural fairness, non-discrimination, and the protection of confidential supplier information.

9.1.2 Duty to Report and Rectify

Anyone who is aware of a non-compliance in their Department shall immediately report that non-compliance to their Department Manager. Each Department Manager shall immediately report any non-compliance that they are aware of in their department to the Procurement Supervisor.

The Procurement Supervisor shall record all reported non-compliance to the Procurement Oversight Committee on a quarterly basis and shall, in consultation with that committee, develop recommendations for rectification of any such non-compliance.

Department Managers are required to observe and address non-compliance with this policy within their Departments. Where instances of non-compliance are identified, the Department Manager is expected to notify the Procurement Supervisor and obtain advice: (a) with respect to mitigating potential risks to the City arising from the non-compliance; and (b) to ensure future non-compliance is avoided.

9.1.3 Procurement Oversight Committee

The Procurement Oversight Committee shall meet at minimum on a quarterly basis, and more frequently as required, to address non-compliance incidents and develop non-compliance remediation measures that may include, based on the severity of the breach:

- (a) the requirement that the individual(s) involved in the breach complete prescribed procurement remediation training;
- (b) the suspension of the individual(s) involved in the breach from any future procurement-related activities including the use of the purchasing cards or any other involvement in the procurement process;
- (c) additional disciplinary measures as may be appropriate based on consultation with Human Resources and Legal Services;
- (d) a report to law enforcement authorities where the breach in question is of a criminal or quasi-criminal nature, and, for greater certainty, such breaches may include but are not limited to potential breaches of the *Criminal Code* or *Competition Act*.

9.2 Audit

All Procurement activities will be subject to audit by the Internal Controller.

9.3 Reporting

The Procurement Supervisor will prepare and submit to Council a monthly report summarizing the City's Procurement activities, including:

- (a) Non-standard Procurements;
- (b) Procurements over \$133,799.

SECTION 10 – ACCESSIBILITY

10.1 Accessibility

To ensure the fair and open compliance to the Integrated Accessibility Standard Regulation under the Accessibility for Ontarians with Disabilities Act, the following considerations must be considered for all levels of Procurement. This is to ensure no architectural, physical, communication, or attitudinal barriers exist that would prevent a member of the public from participating fully as a member of society.

- (a) Purchasing and Department staff involved in the development of quote and tender documents are to identify whether there are accessibility requirements which should be part of the Procurement process. If required, it may be necessary to consult with external advisors if accessibility needs are unclear for the Procurement required;

- (b) If accessibility requirements are found, such requirements must be clearly stated in the Solicitation Document to meet the required legislations;
- (c) Accessibility criteria must be considered throughout the Procurement process. Suppliers, contractors, and/or manufacturers should be asked to identify features of their product or services which meet the relevant accessibility standards;
- (d) Accessibility criteria, where included in the Procurement process, should be given appropriate consideration and weighting during the scoring and evaluation stages of a Procurement process.

ANNEX 1.1 – CONFLICT OF INTEREST PROTOCOL

1. Purpose

The purpose of this protocol is to establish procedures for identifying and addressing any perceived, potential, or actual Conflicts of Interest arising in any Procurement.

2. Interpretation

Unless specifically defined herein, all defined terms in this protocol are defined in the Procurement Policy.

For the purposes of this protocol, "Conflict of Interest" includes:

- (a) when applied to the activities of the City and its consultants and service providers: (i) a conflict between one's private interests and one's public, fiduciary, or contractual duties in relation to any procurement activity; or (ii) engaging in any conduct that may give another party an unfair advantage in a procurement process; or
- (b) in relation to a bidding process, a Bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to: (i) having, or having access to, confidential information of the City in the preparation of its Bid that is not available to other Bidders; (ii) having been involved in the development of the Solicitation Document, including having provided advice or assistance in the development of the Solicitation Document; (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the Solicitation Document; (iv) communicating with any person with a view to influencing preferred treatment in the bidding process (including, but not limited to, the lobbying of decision-makers involved in the bidding process); or (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive bidding process or render that process non-competitive or unfair; or
- (c) in relation to the performance of its contractual obligations, a contractor's other commitments, relationships, or financial interests: (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

3. Application

This protocol applies to all Procurements, including Open Competitions, Invitational Competitions, and Non-Standard Procurements, and to all individuals involved in a Procurement. The requirements contained in this protocol are in addition to any general conflict of interest rules that may apply more broadly across the organization or may apply by general application of law.

For greater clarity, this protocol applies to all individuals involved in a specific Procurement, including, but not limited to: (i) those responsible for seeking approval for and those granting approval to initiate a procurement process; (ii) those responsible for or contributing to the planning and development of Procurement documents, including, but not limited to, Solicitation Documents or Contract documents more generally; (iii) all Procurement project team members, including, but not limited to, evaluation team members; (iv) all individuals involved in preparing Contract award recommendations; and (v) all individuals involved in approving Contract award recommendations and making Contract award decisions.

4. Transaction-Specific Conflict Declarations

All participants in a Procurement process must sign a process-specific Conflict of Interest declaration in the form of Appendix A – Procurement Process Conflict Declaration Form, that confirms their ongoing duty to declare any Conflicts of Interest that may arise during that process and to address those conflicts in the manner prescribed in this protocol.

5. Duty to Declare and Recusal

All participants in a Procurement process, including any outside consultants or other service providers participating on behalf of the City, must declare any perceived, potential, or actual Conflicts of Interest involving themselves or their firms to the Procurement Supervisor and must immediately recuse themselves from participating in any manner in any Procurement to which the perceived, potential, or actual Conflict of Interest applies until that matter has been addressed by the Procurement Oversight Committee ("POC").

6. Duty to Report

All participants in a Procurement process, including any outside consultants or other service providers participating on behalf of the City, must report any perceived, potential, or actual Conflicts of Interest that they become aware of involving any other individual or firm to the Procurement Supervisor.

7. Supply Chain Oversight

Procurement Services shall ensure that the standards prescribed in the Supplier Code of Conduct are incorporated into any contract documents, including solicitation documents in an Open Competition or Invitational Competition. The Department Lead, when delegated authority, shall ensure that the standards prescribed in the Supplier Code of Conduct are incorporated into any Invitational Competition solicitation documents. The Department Manager, or the Department Lead when delegated authority over the specific Procurement, shall immediately notify the Procurement Supervisor when a Bidder or Supplier makes a Conflict of Interest declaration.

8. Downstream Supplier Conflicts

The Department Manager responsible for a Procurement shall ensure that any Contract awarded to a Supplier involved in assisting the organization with a Procurement, including, but not limited to, assisting in: (i) seeking approval or granting approval to initiate a Procurement process; (ii) contributing to the planning and development of Procurement documents, including, but not limited to Solicitation Documents or Contract documents more generally; (iii) participating as a Procurement project team member, including, but not limited to, participating as an evaluation team member; (iv) preparing Contract award recommendations; and (v) approving Contract award recommendations, shall contain express provisions clarifying that the Supplier may not: (i) directly or indirectly participate as a Supplier or Bidder in a Procurement in which it has previously assisted the City; (ii) directly or indirectly assist any third party as a Bidder or Supplier for the Procurement process or contract to which it has previously assisted the City; or (iii) otherwise be in a Conflict of Interest in relation to a Procurement.

9. Role of Procurement Oversight Committee

The Procurement Supervisor shall bring all declared or reported Conflicts of Interest to the POC in a timely manner. The POC shall make all initial determinations in relation to all declared Conflicts of Interest and shall provide direction, including direction to the specific individual or firm making the declaration or who are subject to a reported Conflict of Interest, and, more broadly, as required within the organization, to address the declared Conflict of Interest.

For greater clarity, those POC directions may include, but are not limited to: (i) directing those individuals who have made a Conflict of Interest declaration to permanently recuse themselves from the Procurement in question; (ii) directing those within the organization responsible for the specific Procurement to

implement further mitigation measures; (iii) directing any Bidder or Supplier that has declared a Conflict of Interest or is the subject of reported Conflict of Interest to implement mitigation measures; and (iv) where mitigation measures are no longer feasible due to the nature of the Conflict of Interest, directing: (a) that the Bidder in question be disqualified; (b) that the bidding process in question be terminated; (c) that any Contract awarded to a Supplier that failed to properly declare a Conflict of Interest be terminated; (iv) that any existing Contract that is materially impacted by a newly arising Conflict of Interest be terminated; (e) that debarment procedures be initiated against a Bidder or Supplier, in accordance with the Supplier Suspension Protocol, due to a Conflict of Interest or failure to declare a Conflict of Interest.

APPENDIX A – PROCUREMENT PROCESS ATTESTATION FORM

THIS ATTESTATION is made in relation to the City of Sarnia's procurement processes and is effective as of the date of its signing as set out below.

[NAME OF INDIVIDUAL**]**

Whereas I am or will be involved in the above-noted procurement process, I hereby attest and agree as follows:

ARTICLE 1.0 – NO CURRENT CONFLICTS

I understand and affirm, as a pre-condition of my participation in a procurement process, that I am free from any perceived, potential, or actual Conflicts of Interest including any personal financial interest, whether direct or familial, in the outcome of the procurement process, or bias for or against any party competing for the contract award, that could adversely impact the fairness and integrity of the contract award process. For the purposes of this form, "Conflict of Interest" is defined as:

- (a) when applied to the activities of the purchasing institution and its consultants and service providers: (i) a conflict between one's private interests and one's public, fiduciary, or contractual duties in relation to any procurement activity; or (ii) engaging in any conduct that may give another party an unfair advantage in a procurement process; or
- (b) in relation to a bidding process, a bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to: (i) having, or having access to, confidential information of the purchasing institution in the preparation of its bid that is not available to other bidders; (ii) having been involved in the development of the solicitation document, including having provided advice or assistance in the development of the solicitation document; (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the solicitation document; (iv) communicating with any person with a view to influencing preferred treatment in the bidding process (including, but not limited to, the lobbying of decision-makers involved in the bidding process); or (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive bidding process or render that process non-competitive or unfair; or
- (c) in relation to the performance of its contractual obligations, a contractor's other commitments, relationships, or financial interests: (i) could, or could

be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

Initial Here: _____

ARTICLE 2.0 – ONGOING DISCLOSURE DUTY

I understand that I have an ongoing responsibility to disclose any perceived, potential, or actual Conflicts of Interest that I may discover during the procurement process and that I may need to recuse myself from further participation in the procurement process if a newly discovered Conflict of Interest could prejudice my ability to continue in my role in this procurement.

Initial Here: _____

ARTICLE 3.0 – SEEKING CLARIFICATION

I understand that if I have any questions or concerns about any potential, perceived, or actual Conflict of Interest, or if I become aware of any potential, perceived, or actual Conflict of Interest in relation to a procurement, that I should raise those concerns and disclose that Conflict of Interest directly with the Procurement Supervisor.

Initial Here: _____

ARTICLE 4.0 – ROLE IN PROCUREMENT PROCESS

I understand that my failure to adhere to the due process standards set out in this attestation could, among other things, result in my immediate removal from a procurement process and could prejudice the integrity of that process.

Initial Here: _____

[Signature Page to Follow]

Signature

Name

Title

Date of Signature

APPENDIX B – CONFLICT OF INTEREST DECLARATION FORM

THIS DECLARATION is made in relation to the City of Sarnia's *****PROCUREMENT NUMBER AND RFX NAME **** and is effective as of the date of its signing as set out below.

PART A – to be completed by Employee

Employee Name:	Position/Title:
Department/Division:	
Direct Manager/Supervisor:	
Details regarding the potential/perceived/actual Conflict of Interest:	

Employee Signature

Date:

PART B – to be completed by Procurement Supervisor

Employee Name:
Discussed with Employee: <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:

Signature

Date:

PART C – to be completed by Procurement Oversight Committee Representative	
Employee Name:	Position/Title:
Date Declaration Form Reviewed:	
Comments/Actions:	

Signature

Date:

ANNEX 1.2 – OVERSIGHT AND DELEGATION PROTOCOL

1. Purpose

The purpose of this protocol is to

1. Provide direction to the City and its projects' steering committees, projects' team members, and evaluation teams in relation to the appropriate oversight and governance practices for administering a Bid evaluation and award process and to ensure that all evaluators agree to the standard established in the Evaluator Participation Attestation Form (Appendix A).
2. Establish the procurement-related spending delegation protocols for the organization as established in the Authorization Schedule (Appendix B).

2. Application

This protocol applies to: (a) project-specific steering committees for those Open Competitions that have established such committees; and (b) project team members, including evaluation team members.

3. Creation of Steering Committees and Default Oversight

For complex procurement projects, the City shall establish project-specific steering committees to provide direction and oversight to the project team.

4. Oversight Governance Principles

The following principles shall apply to the procurement steering committees:

- (a) **General Role.** The role of the steering committee is to provide project oversight by facilitating a clear decision-making and delegation process in support of project execution by project teams and to ultimately approve the contract award recommendations of the project team when those recommendations fall within its delegated authority.
- (b) **Distinguishing Oversight from Interference.** Providing oversight should be distinguished from interfering with the work of project teams, since interfering with the bid evaluation process can undermine the integrity of the process and, among other things, nullify any resulting contract award decisions.
- (c) **Screening for Conflicts.** Steering committee members should be screened for potential conflicts in relation to specific bidding processes for which they will be a decision-maker.
- (d) **No Authority to Change Ground Rules.** Steering committees should avoid revisiting their prior decisions once those decisions have been delegated and implemented. The scope of opportunity to set the rules and

requirements of a tendering process is limited to the design, drafting, and approval process that leads to the public release of a solicitation document and any resulting addenda issued prior to the receipt of supplier submissions. Once those rules are established and Bids are received, steering committees do not have the authority to change the ground rules of the bidding process.

- (e) **No Involvement in Evaluation.** While steering committees may be involved in initial project approvals, related funding decisions, and in determining the composition of project team members for delegating the authority to execute a project, they should not be involved in the administration of a Competitive Process and, more specifically, should not be involved in the evaluation process.
- (f) **Structural Barriers Against Interference.** Steering committees should establish structural barriers to protect against interference and the appearance of potential interference in the administration of a bidding evaluation process by enforcing “no-contact” protocols between steering committee members and evaluation team members. These protocols should prohibit steering committee members from interacting with evaluation group members in relation to the specific project during the evaluation process or at any point prior to the ultimate contract award. Project team leads should serve as the liaison between steering committees and evaluation teams to maintain these “no-contact” confidentiality protocols and to ensure that each evaluation team member signs a declaration in the form of the Evaluator Participation Attestation Form (Appendix A), stating that they have no conflicts of interest in respect of the Competitive Process, agreeing to keep the content of Bids and the evaluation confidential, and to conduct the evaluation process in accordance with the standards set out in that attestation.
- (g) **Mandate of Evaluators.** Once evaluation teams are properly constituted, it is those evaluation teams, and not steering committee members, who are responsible for conducting the evaluation process. Evaluation team members are responsible for independently scoring each submission in accordance with pre-established evaluation criteria and procedures. Those evaluation procedures should be moderated by procurement advisors in accordance with proper group evaluation due diligence protocols.
- (h) **Scope of Oversight in Relation to Evaluation.** Steering committees shall not override or replace the evaluations performed by evaluation team members. The oversight role of steering committees should be limited to: (i) confirming that the pre-established and pre-authorized process was

followed during the bidding and evaluation process; (ii) providing direction in the event that steps in the evaluation process need to be rectified by evaluation team members due to procedural irregularities; (iii) providing direction on matters falling beyond the mandate of the project team, particularly in relation to unforeseen events that may arise during the bidding and evaluation process; and (iv) determining whether to proceed with the recommended contract award to the top-ranked Bidder.

- (i) **Governance of Steering Committees.** Steering committees should avoid making decisions in relation to major procurement projects in an ad hoc or informal manner. Project decisions should be made in formal meetings. Steering committee decision-making should be formally documented and made in accordance with formally approved meeting agendas and formally approved recommendations. Unless otherwise established under project-specific steering committee protocols, all steering committee members should have equal decision-making status, with equal voting rights and equal access to the information provided by the project team to the steering committee. Where steering committees are unable to resolve a matter within their group, that matter shall be escalated to Council for resolution.

APPENDIX A - AUTHORIZATION SCHEDULE

A. Standard Procurement

Table 1 – Table of Authority

Procurement Method	Procured Goods	Procurement Value	Authorize Procurement	Delegated Authority to Procure
Order from Existing Standing Offer	All		Department Manager	Department Lead
Roster Competition	All	< \$100,000	Department Manager	Department Lead and Procurement Supervisor
Roster Competition	All	≥ \$100,000	Department Manager	Department Manager and Procurement Supervisor
Low-Value Procurement	Goods & Services	\$0 to \$24,999	Department Manager	Department Lead
Low-Value Procurement	Construction	\$0 to \$49,999	Department Manager	Department Lead
Invitational Competition	Goods & Services	\$25,000 to \$133,799	Department Manager	Department Lead and Procurement Supervisor
Invitational Competition	Construction	50,000 to \$133,799	Department Manager	Department Lead and Procurement Supervisor
Invitational Competition	Construction	\$133,800 to \$249,999	General Manager	Department Manager and Procurement Supervisor
Invitational Competition	Construction	\$250,000 to \$334,399	Chief Administrative Officer	Department Manager and Procurement Supervisor
Open Competition	Goods & Services	\$133,800 to \$249,999	General Manager	Department Manager and Procurement Supervisor
Open Competition	Goods & Services	\$250,000 to \$499,999	Chief Administrative Officer	Department Manager and Procurement Supervisor
Open Competition	Construction	\$334,400 to \$499,999	Chief Administrative Officer	Department Manager and Procurement Supervisor
Open Competition	All	≥ \$500,000	Council	Department Manager and Procurement Supervisor

1. Authorization Process

- (a) The Department Lead completes the Procurement Authorization Form and submits it to the Department Manager.
- (b) The Department Manager reviews and approves the Procurement Authorization Form.
- (c) If the Procurement Value is less than \$133,799, the Department Manager may authorize the Procurement and delegate the authority to procure in accordance with the table above.
- (d) If the Procurement Value is equal to or greater than \$138,000, the Department Manager submits the Procurement Authorization Form in accordance with the table above. The party identified above authorizes the Procurement and delegates the authority to procure in accordance with the table above.
- (e) No Procurement may be authorized unless sufficient funding is available in an approved budget, unless authorized by Council.

2. Delegated Authority to Procure

The delegation of authority to procure includes the authority to:

- (a) conduct the Procurement process in accordance with this policy and applicable protocols;
- (b) approve the Procurement document(s) for a Competitive Process;
- (c) approve the selection of qualified Bidders in a multi-stage Open Competition;
- (d) approve the establishment of qualified Supplier roster in an Open Framework Competition; and
- (e) approve the award of the Contract.

3. Conditions of Delegated Authority to Procure

Delegated authority to procure is subject to the following conditions:

- (a) No Procurement may be initiated unless approved funding in an amount sufficient to cover the Procurement Value is available.
- (b) In the case of a multi-stage Open Competition or an Open Framework Competition, qualified Bidders are selected in accordance with the evaluation and selection process set out in the Solicitation Document.
- (c) No Contract award may be approved unless:
 - i. sufficient funding is available in an approved budget;
 - ii. the Procurement process was conducted through the standard Procurement method, as determined in accordance with this policy;

- iii. the Procurement process was conducted in accordance with this policy and all applicable protocols; and
- iv. in the case of a Competitive Process, the Contract is awarded to the top-ranked Bidder, as determined in accordance with the evaluation and selection process set out in the Solicitation Document.

Where the authority to procure is delegated to multiple individuals, all those individuals must be satisfied that the above conditions of delegated authority are met.

4. Council Authority

If any of the applicable conditions of delegated authority are not met, Council approval must be obtained before proceeding with any Procurement activity.

B. Non-Standard Procurement

Table 2 – Table of Authority

Procurement Value	Authorize Procurement	Delegated Authority to Procure
≤ \$133,799	Department Manager	Department Lead
\$133,800 to \$249,999	General Manager	Department Manager
\$250,000 to \$499,999	Chief Administrative Officer	General Manager
≥ \$500,000	Council	General Manager

1. Authorization Process

- (a) The Department Lead completes the Non-Standard Procurement Authorization Form and submits it to the Department Manager.
- (b) The Department Manager reviews and approves the Non-Standard Procurement Authorization Form.
- (c) If the Procurement Value is less than the applicable Open Competition Threshold, the Department Manager may authorize the Procurement and delegate the authority to procure to the Department Lead.
- (d) If the Procurement Value is equal to the applicable Open Competition Threshold, the Department Manager submits the Non-Standard Procurement Authorization Form to the General Manager. The General Manager reviews and addresses any concerns with the Department Manager.
- (e) If the Procurement Value is between \$250,000 and \$499,999 the Chief Administrative Officer may authorize the Procurement and delegates the authority to procure to the General Manager.
- (f) If the Procurement Value is equal to or greater than \$500,000, the General Manager submits a report to Council for authority to proceed with the

procurement. Council may authorize the Procurement and delegate the authority to procure to the General Manager.

(g) No Procurement may be authorized unless sufficient funding is available in an approved budget, unless authorized by Council.

2. Delegated Authority to Procure

In the case of a Non-Standard Procurement, the delegation of authority to procure includes the authority to negotiate and finalize the Contract with the selected Supplier. No Contract may be finalized unless sufficient funding is available in an approved budget.

C. CONTRACT ISSUANCE OR EXECUTION

1. Authorized Signatories

The Procurement Supervisor has delegated authority to issue Purchase Orders on behalf of the City.

The following individuals have delegated authority to execute legal agreements on behalf of the City:

Table 3 – Authorized Signatories

Procurement Value	Authorized Signatory
≤ \$133,799	Department Manager
\$133,800 to \$249,999	General Manager
\$250,000 to \$499,999	Chief Administrative Officer
≥ \$500,000	Mayor and Clerk (or directed by Council)

2. Review and Execution Process

(a) In accordance with the delegated authority to procure, the authorized individual(s):

- i. approves the award of the Contract;
- ii. confirms all pre-conditions of award are met; and
- iii. assembles all Contract documents and provides the Contract documents to awarded third party for review and signature.

(b) If an agreement is to be signed, Legal Services reviews and approves the agreement for signature and sends the agreement to the Authorized City Signatory.

(c) The agreement is signed by the Authorized Signatory.

3. Pre-Approval of Standard Term Contracts

(a) Legal Services may approve standard term Contract documents, including Purchase Order terms, standard forms of agreement, and

supplementary terms and conditions for use in specified circumstances and subject to established conditions.

Where pre-approved standard term Contract documents are used in accordance with specified circumstances and established conditions, and without modification to any terms and conditions, the Procurement Supervisor may issue the Purchase Order and the Authorized Signatory may sign the agreement without further review by Legal Services.

D. CONTRACT AMENDMENTS

Table 4 – Table of Authority if Total Cumulative Increase is Less Than 20% of Original Procurement Value

Total Cumulative Increase	Authorize Amendment
≤ \$249,999	Department Manager
≥ \$250,000	General Manager

Table 5 – Table of Authority if Total Cumulative Increase is Equal to or More Than 20% of Original Procurement Value

Total Cumulative Increase	Authorize Amendment
≤ \$499,999	Chief Administrative Officer
≥ \$500,000	Council

Total Cumulative Increase means the total value of all increases to the original Procurement Value, including the value of all previously approved amendments and the value of the proposed amendment.

1. Authorization Process

- (a) The Contract Administrator completes the Contract Amendment Authorization Form.
- (b) If the Procurement Value is less than the applicable Open Competition Threshold, the Contract Administrator obtains the appropriate authority based on the above tables. If the amendment must be authorized by the Chief Administrative Officer, the Contract Amendment Authorization Form must first be approved by the General Manager.
- (c) If the Total Cumulative Increase is equal to or greater than the applicable Open Competition Threshold, the Contract amendment must be treated as a Non-Standard Procurement and the Contract Amendment Authorization Form must be reviewed by the General Manager. The General Manager reviews and addresses any concerns with the Chief

Administrative Officer. Once any concerns have been resolved or noted on the Contract Amendment Authorization Form, the General Manager submits the Form to the appropriate authority based on the above tables.

(d) No Contract amendment may be authorized unless sufficient funding is available in an approved budget, unless authorized by Council.

ANNEX 2.1 – QUALIFIED SUPPLIER ROSTER PROTOCOL

1. Purpose

The purpose of this protocol is to provide procedures and guidance for establishing and managing Qualified Supplier Rosters.

2. Interpretation

Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

For ease of reference, the following defined terms are repeated here:

“Open Framework Competition” means the Competitive Process used to establish a Qualified Supplier Roster and provide for an ongoing application process during the term of the Qualified Supplier Roster, as further described in this protocol.

“Qualified Supplier Roster” means a list of Suppliers that have participated in and successfully met the requirements of a Request for Supplier Qualifications (“RFSQ”) and have therefore been prequalified to perform discrete work assignments involving the delivery of a particular type of deliverable.

“Roster Competition” means an expedited, invitational competition between Suppliers that have been included on a Qualified Supplier Roster for the selection of a Supplier to perform a discrete work assignment during the term of the roster.

“Master Framework Agreement” means a master agreement entered into between the City and the prequalified Suppliers that have been included on a Qualified Supplier Roster.

3. Establishing a Qualified Supplier Roster

When 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 prequalified Suppliers should be established.

Procurement Services is responsible for establishing Qualified Supplier Rosters in co-operation with Departments. An Open Framework Competition is conducted through the public issuance of an RFSQ, and Suppliers are pre-screened based on the qualification criteria and evaluation process set out in the RFSQ.

The evaluation process must specify the minimum threshold and conditions that must be met in order for a Supplier to be considered qualified. Due to the

variability of requirements, Qualified Supplier Rosters do not generally include 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 that 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. If the Qualified Supplier Roster is intended to be in place for a long or indefinite period of time, it is not reasonable to require ceiling prices or maximum rates unless a reasonable price escalation mechanism will apply.

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

The Master Framework Agreement will set out the process for Roster Competitions and 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 City will select one or more of the Suppliers on the Qualified Supplier Roster to perform the work assignment through a Roster Competition.

A Qualified Supplier Roster does not result in any commitment by the City 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.Preparing the RFSQ

The Solicitation Document should be prepared using the Roster Framework template. The following information must be addressed in the RFSQ:

- (a) the qualification criteria and evaluation process;
- (b) the threshold evaluation score needed in order to be included on the Roster; and
- (c) the term of the Master Framework Agreement.

The RFSQ must not include:

- (a) 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;

- (b) 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
- (c) requirements that Bidders have previously been awarded Contracts by the City or have prior experience in a particular geographic location.

The Master Framework Agreement must be attached to the RFSQ and should include details regarding the management of the Qualified Supplier Roster, including:

- (a) the process by which new Suppliers will be given the opportunity to qualify for inclusion in the Qualified Supplier Roster;
- (b) the process by which Suppliers may be removed from the Qualified Supplier Roster; and
- (c) the process for conducting Roster Competitions.

5. Conducting the Open Framework Competition

To establish a Qualified Supplier Roster, the Open Framework Competition should be conducted in accordance with the following:

5.1 Procurement Notice

Procurement Services is responsible for posting notice of the opportunity online. Suppliers must be able to access the notice free of charge. The notice inviting interested Suppliers to apply for inclusion in a Qualified Supplier Roster must include:

- (a) procuring entity's name and address;
- (b) contact information (phone and/or email) of contact person;
- (c) information on how to obtain all relevant documents relating to the list;
- (d) a description of the goods or services, or categories thereof, for which the Qualified Supplier Roster may be used;
- (e) 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;
- (f) 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
- (g) an indication that the list may be used for Procurement covered by Chapter 19 of the *Canada-European Union Comprehensive Economic*

and Trade Agreement (the "CETA") and/or Chapter 5 of the Canadian Free Trade Agreement (the "CFTA").

5.2 Posting of Solicitation Document

Procurement Services is responsible for posting the RFSQ document online. The RFSQ document should be posted at the same time as the notice.

5.3 Time Period for Bid Submission

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

Whenever possible, the RFSQ should allow for responses to be submitted by electronic means. If responses are accepted by electronic means, Suppliers must be given a minimum of 25 calendar days to respond. If, for some reason, electronic submission of responses is not permitted, a minimum time period of 30 calendar days must be provided.

5.4 Ongoing Application Process

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

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

6. Removing Suppliers from the Qualified Supplier Roster

Suppliers that fail to perform Contracts awarded through a Roster Competition in a satisfactory manner may be removed from the Qualified Supplier Roster and will no longer be eligible to participate in Roster Competitions and will not be eligible to re-qualify during the term of the Qualified Supplier Roster.

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 removed from a Qualified Supplier Roster, the Supplier must be provided with a written explanation of the reasons for the decision.

7. Roster Competitions

The Suppliers on the Qualified Supplier Roster should 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 Open Competition Thresholds, an invitational quote process 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 Services.

If the Procurement Value of the required goods and services associated with the work assignment is at or above the Open Competition Thresholds, Procurement Services is responsible for conducting the Roster Competition in accordance with the following:

- (a) The notice of intended Procurement must be publicly posted online and must indicate that inclusion on the Qualified Supplier Roster is a condition of participation in the Roster Competition.
- (b) The time period for submission of Bids must not be less than ten calendar days. Longer time periods of up to 25 days should be provided whenever possible.
- (c) If a Supplier that is not included on the Qualified Supplier Roster submits a request to participate in the Roster Competition and submits all required information necessary to apply for inclusion on the Qualified Supplier Roster within the time period for Bid submission, Procurement Services must consider the application and promptly notify the Supplier of the outcome. Only in exceptional cases, due to the complexity of the procurement, may the Supplier be excluded on the grounds that there was insufficient time to consider their application within the time period allowed for the submission of Bids.

If a Supplier that is not included on the Qualified Supplier Roster submits a request to participate in the Roster Competition and submits all required information necessary to apply for inclusion on the Qualified Supplier Roster within the time period for Bid submission, Procurement Services should consider the application if there is sufficient time to do so within the time period allowed for the submission of Bids.

Annex 2.2 - Piggybacking Protocol

1. Purpose

The purpose of this protocol note is to: (a) provide clarity on the risks associated with the non-competitive practice referred to in industry as “piggybacking” and “onboarding”; (b) provide guidelines for assessing the compliance of an existing third-party standing agreement with open tendering obligations and the options for conducting proper second-stage selection processes; and (c) provide guidelines on how to engage in piggybacking or onboarding in exceptional circumstances.

2. Piggybacking May Not Comply with Open Tendering Obligations

Public institutions that engage in piggybacking or onboarding onto third-party supplier lists, prequalification rosters, and vendor-of-record arrangements risk breaching their open tendering duties.

3. Guidelines for Assessing the Compliance of a Third-Party Standing Agreement

Departments that are considering the use of another organization's Procurement or Contract should first confirm that the contemplated process complies with their specific Procurement obligations, since piggybacking or onboarding is a form of improper sole-sourcing unless it has followed proper procedures.

To better ensure compliance, Departments should follow the following guidelines for piggybacking, and onboarding:

- (a) The procurement rules require an open competition any time an anticipated contract value reaches the applicable contract value thresholds (subject to applicable exemptions or exclusions). This obligation is best met by conducting your own Competitive Process on a one-time basis. As a default rule, Departments should assume that they will need to run their own Competitive Processes to meet their Open Competition obligations.
- (b) Open Competition obligations can also be met by using framework arrangements (known in industry by a number of terms, such as prequalification lists, rosters, supplier lists, vendors of record, standing agreements, standing orders, frameworks, and the like). However, Procurement rules and the proper stewardship of public resources require transparency in the use of frameworks, whether they be institution-specific or established by third parties.

- (c) While frameworks are sometimes used by multiple institutions, transparency standards still apply to: (i) the creation of a prequalified list of suppliers; and (ii) the award of specific assignments from that list of suppliers. Departments cannot rely on the piggybacking or onboarding provisions in a third-party standing agreement to award Contracts in a non-transparent manner
- (d) Proper framework purchasing (whether within one organization and its departments or multiple organizations) requires transparency at the front-end initiating process, which, for compliance purposes, would include a disclosure of the involved organizations in the initial prequalification Solicitation Document by the entity establishing that framework, the advanced public disclosure of participation in that framework by the specific purchasing institutions that intend to use that framework, and the use of transparent and compliant protocols to award assignments through second-stage competitions.
- (e) For Low-Value Procurement, Departments may be able to establish a call-up process without tendering by using a rotational, right-of-first-refusal process, so long as these protocols have been pre-established. Otherwise, all suppliers prequalified in the specific category should be invited to participate in the second-stage Invitational Competition.

4. Piggybacking Guidelines for Exceptional Circumstances

Where the contemplated piggybacking and onboarding arrangement does not comply with the standards described above, third-party standing arrangements should only be used in exceptional circumstances and should be treated as a Non-Standard Procurement. The use of third-party arrangements in these exceptional circumstances should follow the below process:

Step 1: Determine the Purchase Value threshold.

Confirm the estimated value of the contemplated purchase. Determine whether that value exceeds the threshold for complying with Open Competition requirements. If yes, proceed to Step 2. If no, proceed to Step 3.

Step 2: Issue notice of proposed Procurement.

Issue a notice of proposed Procurement in accordance with applicable public posting procedures identifying the intention to use a Non-Standard Procurement process and to identify if there are other sources for the proposed purchase that may offer similar terms to those you are contemplating from the third-party arrangement.

Step 3: Engage in a technical value-for-money assessment.

Conduct a due diligence analysis to determine whether the offering available under the contemplated agreement meets your technical requirements and operational needs and offers value-for-money.

In conducting this analysis, consider whether there are any other agreements available as a comparator for documenting the due diligence analysis, and also compare the use of the standing agreement against the alternative of conducting a separate stand-alone Open Competition. The due diligence analysis should include the following considerations:

- (a) *Technical Compatibility*: The adequacy of the offerings under the agreement in meeting your technical requirements.
- (b) *Pricing*: The pricing offered under the contemplated agreement when compared to the pricing that would likely be obtained under a separate, stand-alone Open Competition. This step may include seeking informal quotes or conducting market research from other prospective suppliers, who may be available to provide the requirements under separate contractual arrangements;
- (c) *Alternative Transaction Costs*: The estimated transactional costs (including staff time and other related costs) that would be incurred in conducting a separate, stand-alone procurement process, when compared to the offerings available under the contemplated agreement; and
- (d) *Timing*: The timing of conducting a separate stand-alone Open Competition when compared to purchasing under the contemplated agreement.

Where the due diligence review confirms that the contemplated agreement represents the best solution from the standpoint of technical compatibility, pricing, transactional costs, and timing, obtain the necessary internal approvals to proceed to Step 4.

Step 4: Document the transaction.

Using standard contract formalization protocols appropriate for the contemplated agreement, document the transaction to confirm the specific requirements and related pricing and performance terms.

ANNEX 3.1 – PROCUREMENT PLANNING PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to assist Departments in planning for a Procurement process. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Determining Requirements

The Department must clearly identify what is to be procured. A concise initial mapping statement describing the required Deliverables will be used to develop clear business requirements and detailed specifications.

3. Market Research

If the Department is uncertain about the Deliverables required or if there is insufficient internal knowledge about the market, the Department must consult with Procurement Services about conducting a Request for Information ("RFI") process.

4. Supply Arrangements for Recurring Requirements

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 Services about the possibility of establishing a Standing Offer or Qualified Supplier Roster.

5. 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 (for example, a two-year Contract with an option to renew for an additional one-year period) and any options to purchase additional Deliverables (for example, 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.

The total value must include all costs to the City for all goods and services to be supplied under the Contract(s), including, if applicable, delivery, installation, training, operation, maintenance, replacement, and disposal, inclusive of non-rebateable HST.

If multiple Contracts are entered into for the same Deliverables, 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 and ensure that the Procurement is appropriately streamlined. For example, if it is foreseeable that all Bids may come in over the Open Competition Thresholds, an Open Competition 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 a significant delay in the acquisition of the required Deliverables.

If the Department is unsure how to determine the value of a particular procurement, it must consult with Procurement Services. Dividing procurements or using valuation methods with the intention of reducing the Procurement Value is strictly prohibited.

6. Approved Budget

Before initiating a procurement, the Department should confirm that sufficient funding is available from an approved funding source, based on their anticipated overall costs of the procurement.

7. Procurement Method and Process for Initiation

Different types of Procurement processes may be used depending on the nature, value, and circumstances of the procurement. Departments are not permitted to procure Deliverables or engage with potential Suppliers regarding the Procurement of Deliverables without the involvement of Procurement Services, unless:

- (a) the table below specifies that the involvement of Procurement Services is not required; or
- (b) the Procurement Supervisor has expressly authorized the Department to proceed without the involvement of Procurement Services.

The table set out below must be used to identify the appropriate Procurement method and the process for initiating the Procurement process.

Threshold	Procurement Method	Initiation of Procurement
<p>Goods and Services below \$25,000</p> <p>Construction below \$50,000</p>	<p>Low-Value Procurement: Procurement Value is below the Low-Value Procurement Threshold and the Deliverables are available under an existing Standing Offer or Qualified Supplier Roster</p>	<p>Involvement of Procurement Services is not required if purchasing via corporate purchasing card.</p> <p>Otherwise, complete the Procurement Authorization Form in Appendix A and submit to Procurement Services. Upon receipt of the Procurement Authorization Form, Procurement Services will place the order through the issuance of a Purchase Order.</p>
Any value	<p>Establish a Standing Offer: Deliverables are made available through a Standing Offer</p>	<p>Complete the Procurement Authorization Form in Appendix A and submit to Procurement Services.</p> <p>Upon receipt of the Procurement Authorization Form, Procurement Services will follow the Standing Offer process.</p>
Any value	<p>Roster Competition: Deliverables are available under an existing Qualified Supplier Roster</p>	<p>Complete the Procurement Authorization Form in Appendix A and submit to Procurement Services.</p> <p>Upon receipt of the Procurement Authorization Form, Procurement Services will contact the Department Lead to discuss the requirements and confirm the appropriate process in accordance with the Qualified Supplier Rosters Protocol.</p>
Good and Services between \$25,000 and \$133,799	<p>Invitational Competition: Procurement Value is within the Invitational Competition Thresholds set out in the Procurement Policy and the Deliverables are not available under an existing</p>	<p>Complete the Procurement Authorization Form in Appendix A and submit to Procurement Services.</p> <p>Upon receipt of the Procurement Authorization Form, Procurement Services will</p>

Threshold	Procurement Method	Initiation of Procurement
Construction between \$50,000 and \$334,399	Standing Offer or Qualified Supplier	contact the Department Lead to discuss the requirements and, if necessary, schedule a planning meeting. The Department should complete the Procurement Plan for Invitational Competition, as described below in Section 8, and consult with Procurement Services, as required.
Good and Services over \$133,800 Construction over \$334,400	Open Competition: Procurement Value is equal to or exceeds the Open Competition Threshold set out in the Procurement Policy and the Deliverables are not available under an existing Standing Offer or Qualified Supplier	Complete the Procurement Authorization Form in Appendix A and submit to Procurement Services. Upon receipt of the Procurement Authorization Form, Procurement Services will contact the Department Lead to schedule a planning meeting. The Department must work with Procurement Services to complete the Procurement Plan.
Any value	Non-Standard Procurement: A Non-Standard Procurement is justified in accordance with the Non-Standard Procurement Protocol	Follow the Non-Standard Procurement Protocol and complete the Non-Standard Procurement Authorization Form in Appendix A of the Non-Standard Procurement Protocol to obtain authority to initiate the procurement.

8. Detailed Procurement Plan for Competitive Process

Procurement Services is responsible for developing a detailed Procurement Plan for all Competitive Processes. It must complete Procurement Plan for Invitational

Competition (Appendix B) or Procurement Plan for Open Competition (Appendix C).

The Procurement Plan must be reviewed and approved by Department Lead before the Solicitation Document can be assembled. Procurement Services must consult with and involve the Department Lead during the development of the Procurement Plan to avoid unnecessary delay in the review and approval process.

Detailed Procurement planning is focused on five key design planning questions:

8.1 What Are We Buying?

- (a) **Requirements and specifications:** The Department is responsible for drafting clear, detailed business requirements and specifications that encourage open, fair, and transparent competition. Consult the Document Drafting Protocol for additional guidance in developing appropriate requirements and specifications.
- (b) **Material Disclosures:** In order to solicit competitive and responsive pricing during a Competitive Process, it is essential that Bidders know all material information relating to the procurement. The Department's subject matter experts must provide all information that is material to the procurement, and they should consult the Document Drafting Protocol for additional guidance.

8.2 What Is the Pricing Structure?

The Department is responsible for developing a clear pricing structure. Consult the Document Drafting Protocol for a description of various pricing structures and the factors to consider in developing the appropriate pricing structure for the procurement.

8.3 What Is the Evaluation Plan?

The Department, in consultation with Procurement Services, is responsible for developing an evaluation plan. Consult the Document Drafting Protocol for a description of various evaluation methodologies and the factors to consider in developing the appropriate evaluation plan for the procurement.

8.4 What Are the Contract Terms? Can They Be Predefined, or Will Negotiation Be Needed?

Procurement Services must consider whether or not all of the Contract requirements and performance terms and conditions can be clearly defined in advance and incorporated into the call for Bids to permit the finalization of the Contract with the successful Bidder without negotiations. Procurement Services should consult with Legal Services regarding the use of standard form Contracts.

8.5 What Is the Appropriate Form of Solicitation Document?

Procurement Services will determine the most appropriate Solicitation Document format. Procurement Services should review the descriptions of the different formats that are set out in the Format Selection Protocol and use the questionnaire and checklist included there to identify the appropriate Solicitation Document format for the procurement.

9. Major Projects

A major project is a Procurement that is of a value, complexity, risk level, or public profile that requires that it be given a significant allocation of attention and time from the Department and Procurement Services, as well as the potential involvement of other stakeholders.

When conducting a major project, Departments, in consultation with Procurement Services, must consider the following additional potential needs:

- (a) the retention of external advisors where there are insufficient internal resources to assist in developing specifications or business requirements;
- (b) the appointment of an internal project lead to co-ordinate input from multiple Departments or stakeholders;
- (c) the early involvement of Legal Services to ensure that all legal and risk considerations are appropriately addressed; and
- (d) the creation of a project-specific oversight steering committee.

APPENDIX A – PROCUREMENT AUTHORIZATION FORM

Department:	
Department Lead:	
Date:	

Estimated Procurement Value:	
Funding Source or General Ledger Account Number:	
Procurement Method:	<input type="checkbox"/> Establish Standing Offer <input type="checkbox"/> Roster Competition <input type="checkbox"/> Invitational Competition <input type="checkbox"/> Open Competition

Initial Mapping Statement

Describe the procurement. What is being purchased?

--

Background

Describe any relevant background information (for example, what gave rise to the need for the procurement? Is the Procurement part of a larger project? What is the history of the project? What stage is the project at?).

Market Research

Is further market research necessary to appropriately define the required Deliverables?

☐ No

☐ Yes

If yes, consult with Procurement Services about the issuance of a Request for Information ("RFI") prior to proceeding.

Existing Standing Offer or Qualified Supplier Roster

Is there an existing Standing Offer or Qualified Supplier Roster for the required Deliverables?

☐ No

☐ Yes

Repetitive Procurement

Are the Deliverables required on a frequent or regularly recurring basis?

For example, do you require the same Deliverables more than once a year or at regular intervals (for example, monthly or annually) or are you aware of other Departments that may require the same Deliverables?

☐ No

☐ Yes

Procurement Authorization

All Procurement Authorization Forms must be approved in accordance with the Authorization Schedule.

Authorized by the Department Manager:	Signature: _____ Name: _____ Title: _____ Date: _____
---------------------------------------	--

APPENDIX B – PROCUREMENT PLAN FOR INVITATIONAL COMPETITION

Requirements and Specifications

Attach the detailed requirements and specifications for the required Deliverables. *Refer to Annex 3.3 Document Drafting Protocol for guidance.*

Material Disclosures

Provide all material information relating to the Procurement that Bidders will need to know in order to submit a Bid.

Pricing Structure

Select the appropriate pricing structure.

- ☐ Lump sum
 - ☐ With adjustments
 - ☐ Without adjustments
- ☐ Unit prices
 - ☐ With adjustments
 - ☐ Without adjustments
- ☐ Time and materials
 - ☐ With upset limit
 - ☐ Without upset limit
- ☐ Budget-based set price
- ☐ Licence fees
- ☐ Life-cycle costing
- ☐ Other: _____

Evaluation Plan

Select the method of evaluation that will be used to select the successful Supplier.

- ☐ Price only: selection of lowest-priced compliant Bidder
- ☐ Evaluated criteria: selection of highest-scoring compliant Bidder

What criteria should be considered in the evaluation? How much weight should each of the criteria be given (points out of 100)? What information should the Bidder provide for you to evaluate?

Criteria	Points Available	Information for Evaluation
Price		
Total	100	

☐ Other: _____

Contract Terms

What form of Contract will be used to Contract with the selected Bidder?

- ☐ City's standard form of agreement for _____.
- ☐ A Purchase Order will be issued, and a legal agreement is not required.

Solicitation Document Format

Indicate the Solicitation Document format to be used.

The Invitational Request for Quotation ("RFQ") format is typically used for Invitational Competitions. If the Department Lead wishes to use a different format, please consult with Procurement Services.

- ☐ Invitational RFQ
- ☐ Other format: _____

Number of Suppliers

Indicate the number of Suppliers that will be invited to submit Bids.

A minimum of three Suppliers must be invited to submit Bids. If fewer than three Suppliers will be invited, it is a Non-Standard Procurement and the Non-Standard Procurement Protocol must be followed.

- ☐ Three
- ☐ Other number: _____

Selection of Suppliers to Participate

Explain how/why the particular Suppliers will be chosen to participate.

Method of Submitting Bids

Indicate the method by which Suppliers will be instructed to submit their Bids.

- ☐ Email
- ☐ Electronic Bid submission platform
- ☐ Mail / Courier delivery

Preliminary Schedule

Fill in estimated dates or time periods for the events below.

Issue Solicitation Document	
Bid Submission Deadline	
Evaluation Period	
Contract Award	
Contract Start Date	

APPENDIX C – PROCUREMENT PLAN FOR OPEN COMPETITION

Procurement Services should begin preparation of the Procurement Plan for review and discussion with the Department Lead during the planning meeting(s). Procurement Services will work with the Department to finalize the Procurement Plan.

Requirements and Specifications

Are you able to precisely describe and prescribe all specifications or do you want Bidders to propose solutions?

- ☐ All specifications will be prescribed.
- ☐ Bidders will be asked to propose solutions.

Attach the requirements and specifications for the required Deliverables. Identify any mandatory technical requirements. *Refer to Annex 3.3 Document Drafting Protocol for guidance.*

Material Disclosures

Provide all material information relating to the Procurement that Bidders will need to know in order to submit a Bid.

Pricing Structure

Select the appropriate pricing structure.

- ☐ Lump sum
 - ☐ With adjustments
 - ☐ Without adjustments
- ☐ Unit prices
 - ☐ With adjustments
 - ☐ Without adjustments
- ☐ Time and materials
 - ☐ With upset limit
 - ☐ Without upset limit
- ☐ Budget-based set price
- ☐ Licence fees
- ☐ Life-cycle costing

☐ Other: _____

Evaluation Plan

Do you want to proceed directly with the solicitation of Bids, or do you want to narrow the field of Suppliers through a prequalification process?

- ☐ Solicit Bids from all potential Suppliers.
- ☐ Prequalify the Suppliers that will be eligible to Bid.

Select the method of evaluation that will be used to select the successful Supplier.

- ☐ Price only – selection of lowest-priced compliant Bidder
- ☐ Evaluated criteria – selection of highest-scoring compliant Bidder

What criteria should be considered in the evaluation? How much weight should each of the criteria be given (points out of 100)? Do you want to require the Bidder to obtain a minimum score for all or certain criteria? What information should the Bidder provide for you to evaluate?

Criteria	Points Available	Minimum Score	Information for Evaluation
Price			
Total	100		

Contract Terms

How will the Contract with the selected Bidder be formed?

- ☐ Selected Bidder will be required to enter into predefined Contract.

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.

What form of Contract will be included in the Solicitation Document?

- ☐ City's standard form of agreement for _____.
- ☐ Customized form of agreement to be prepared by Legal Services.

- ☐ A Purchase Order will be issued, and a legal agreement is not required.
- ☐ Contract will be finalized through negotiation with the selected Bidder.

There may be a need to negotiate some Contract requirements and performance terms and conditions to ensure that the final Contract is appropriately tailored to the proponent's proposed solution.

Solicitation Document Format

Indicate the Solicitation Document format to be used. Select the appropriate format using the Format Selection Protocol.

- ☐ RFQ (Low Bid)
- ☐ RFQ (High Score)
- ☐ RFT
- ☐ No-Negotiation (Contract A) RFP
- ☐ Consecutive Negotiation (Rank and Run) RFP
- ☐ Concurrent Negotiation (Dialogue/BAFO) RFP
- ☐ RFSQ (Prequalification) followed by RFT
- ☐ RFSQ (Prequalification) followed by RFQ
- ☐ RFSQ (Prequalification) followed by No-Negotiation (Contract A) RFP
- ☐ RFSQ (Prequalification) followed by Negotiated RFP
- ☐ RFSQ (Roster Framework) followed by customized second-stage selection protocol

Preliminary Schedule

Fill in estimated dates or time periods for the events below.

Rows containing an 'X' are completed only if conducting a two-stage process (for example, RFSQ followed by RFT, RFQ, or RFP). Shaded rows are completed only if conducting a Concurrent Negotiation (Dialogue/BAFO) RFP process.

Development of Solicitation Document	
Posting of Solicitation Document	
Bid Submission Deadline	
Evaluation Period	
Selection of Prequalified Bidders	X
Issuance of Second-Stage Solicitation Document	X
Second-Stage Evaluation Period	X
Selection of Short-Listed Proponents	
Concurrent Negotiations and Submission of BAFOs	
Evaluation of BAFOs	
Contract Negotiation (for Negotiated RFP only)	
Contract Award	
Contract Start Date	

ANNEX 3.2 – FORMAT SELECTION PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to provide assistance and direction for selecting the appropriate Solicitation Document format for a procurement. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Forms of Template Solicitation Documents

Procurement Services maintains a series of Solicitation Document templates. Forms of Solicitation Documents include the following:

- **Invitational Request for Quotations (“RFQ”)** – This format is for use in an Invitational Competition for the Procurement of goods, services, or construction where Bids will be solicited from a limited number of Suppliers, and the evaluation and ranking of Bidders will be based on either lowest price or the scoring of simple evaluation criteria.
- **Request for Quotations (“RFQ”) – Low-Bid Version** – This format is for use in a simplified Open Competition for the Procurement of standard goods, services, or construction on the basis of lowest price and standardized Contract terms that will not require negotiation.
- **Request for Quotations (“RFQ”) – High-Score Version** – This format is for use in an Open Competition for the Procurement of standard goods, services, or construction on the basis of straightforward high-score evaluation criteria and standardized Contract terms that will not require negotiation.
- **Request for Tender (“RFT”)** – This format is for use in an Open Competition for the Procurement of goods or construction where there is a need for legally binding, irrevocable Bids, typically supported by bid security, and price is the primary consideration. This format must include well-defined specifications, requirements, and Contract terms and conditions, as post-bid negotiations are not permitted.
- When using the RFT format, it is strongly recommended that a prequalification process be conducted to ensure that only qualified Bidders are eligible to respond to the RFT. See below for information regarding the Request for Supplier Qualifications (“RFSQ”) – Prequalification Version.
- **No-Negotiation (Contract A) Request for Proposals (“RFP”)** – This format is for use in an Open Competition for the Procurement of goods, services, or construction where there is a need for legally binding, irrevocable Bids and where factors other than price will be evaluated. This format must

include well-defined specifications, requirements, and Contract terms and conditions, as post-bid negotiations are not permitted.

- **Consecutive Negotiation (Rank and Run) Request for Proposals** – This format is for use in an Open Competition for the Procurement of goods, services, or complex construction projects where proposals will be ranked on price and non-price factors and the top-ranked proponent will be invited to negotiate the final Contract. The rules of the process provide that if the negotiations with the top-ranked proponent fail, the City can proceed to negotiate with the next-ranked proponent. This format allows for a more flexible process to encourage innovative and creative proposals that may help inform the development of final specifications or performance terms through the negotiation of the final Contract with the selected proponent.
- **Concurrent Negotiation (Dialogue/Best and Final Offer (“BAFO”)) Request for Proposals** – This format is for use in an Open Competition for the Procurement of goods, services, or complex construction projects where proposals will be ranked on price and non-price factors to create a short-list of proponents that will be invited to engage in negotiations or discussions with the City prior to submitting a best and final offer (“BAFO”) for further evaluation and final ranking. This format allows for a more flexible process to encourage innovative and creative proposals and is particularly useful where the nature of the project may allow for a variety of potential approaches and solutions that the City could consider and use to refine the requirements prior to the submission of BAFOs and to the final ranking and selection of Bidders.
- **Request for Supplier Qualifications (“RFSQ”) – Prequalification Version** – This format is used to prequalify Suppliers in the first stage of a two-stage Open Competition. Bidders who meet the requirements of the RFSQ are eligible to participate in the second-stage Procurement process and are invited to respond to a subsequent Solicitation Document.
- **Request for Supplier Qualifications (“RFSQ”) – Roster Framework Version** – This format is for use in an Open Framework Competition 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.

3. Selection Factors

Key factors to consider in choosing the appropriate Solicitation Document format include:

- (a) value and complexity of the purchase;
- (b) whether bid security is required – irrevocable Bids and bid security should be required only where there are legitimate business reasons for doing so; and
- (c) 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 RFT and the No-Negotiation RFP formats require Bidders to submit irrevocable Bids and give rise to a legally binding Procurement Contract called “Contract A.” Bids are considered irrevocable when 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 (in other words, “Contract B”) must be included in the RFT and the No-Negotiation RFP and cannot be negotiated or amended after the closing deadline. When a Contract-A format is used, the risk to the City is greatly increased, and all employees involved in the Procurement project should ensure that they fully understand the City's legal obligations when using these formats.

4. Selection Tools

Use the Format Selection Questionnaire (Appendix A) to assist with the selection of the appropriate format for the Procurement project. Use the Procurement Format Checklist (Appendix B) 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 Services for additional guidance and assistance in selecting the appropriate format.

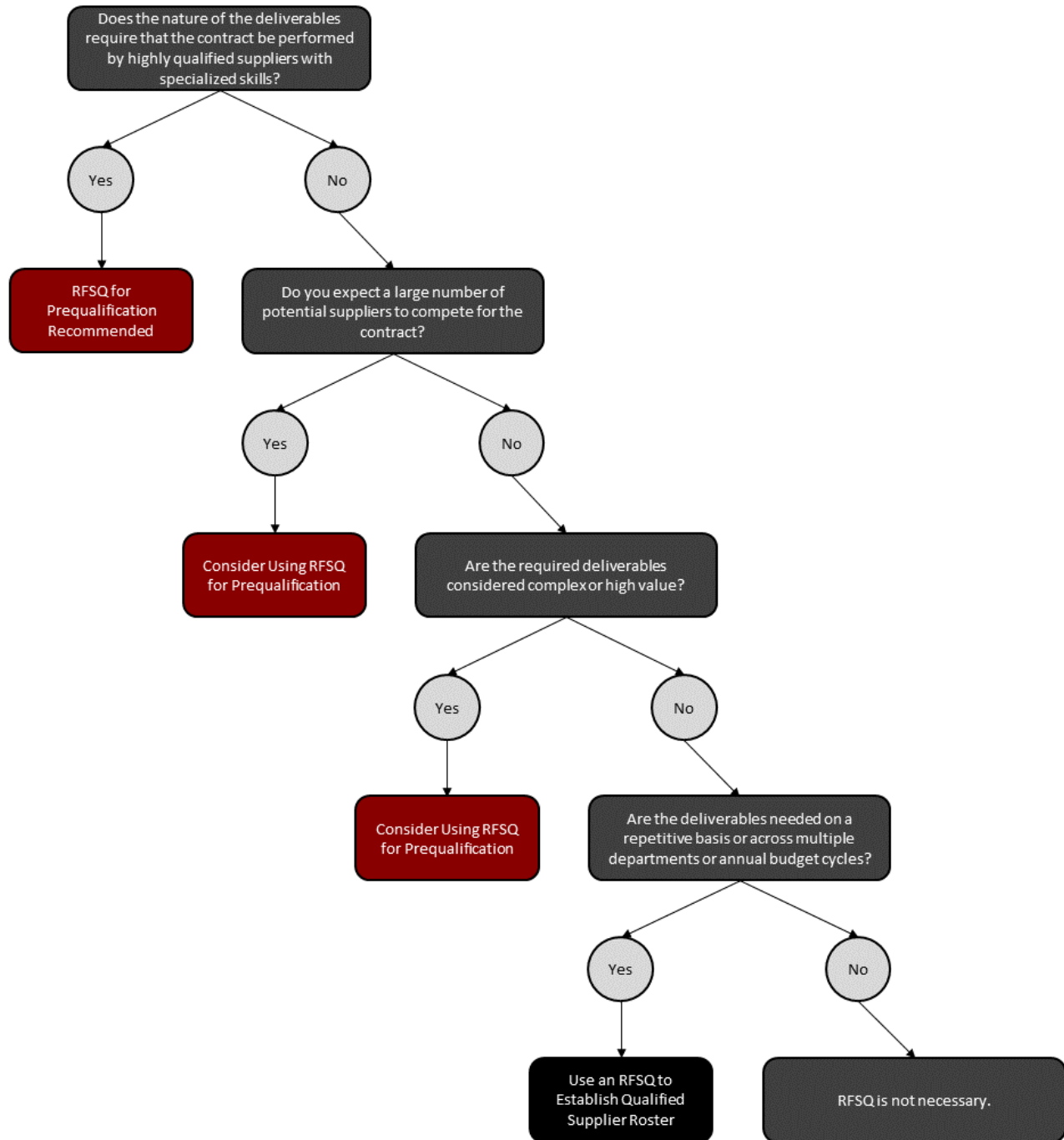
5. Market Research Tool

In addition to the various forms of Solicitation Documents used to conduct a Procurement process, Procurement Services 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 goods 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

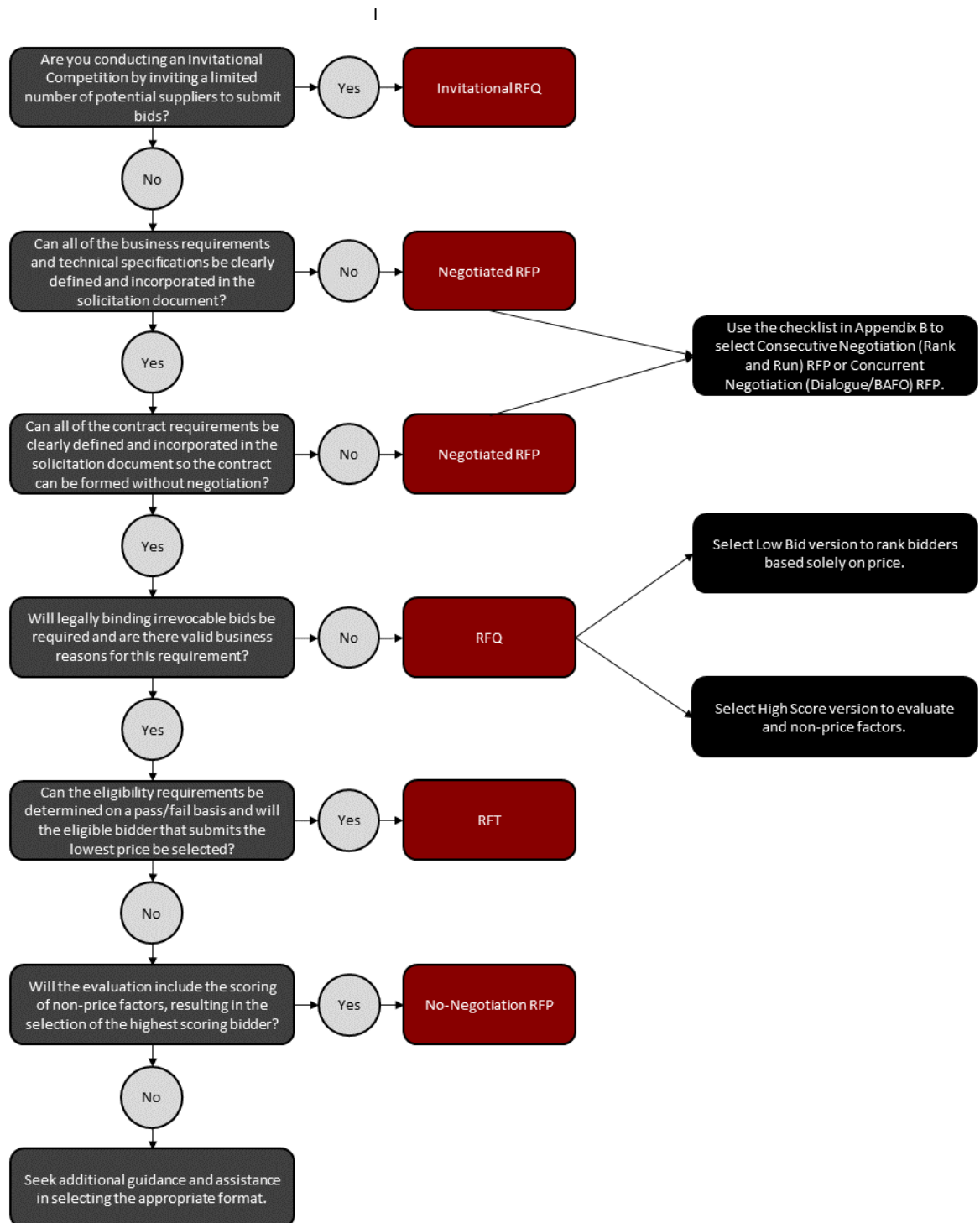
inform a future procurement, and must not be used to prequalify Bidders or restrict participation in a future competitive Procurement process.

APPENDIX A – FORMAT SELECTION QUESTIONNAIRE

Prequalification Process



Single-Stage or Second-Stage Process



APPENDIX B – PROCUREMENT FORMAT CHECKLIST

Invitational RFQ

- ☐ You are buying simple goods, services, or construction with a value below the Open Competition Thresholds.
- ☐ You will be conducting an Invitational Competition by inviting a limited number of potential Suppliers to submit Bids.
- ☐ 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-priced 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 Open Competition.
- ☐ 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-priced Bidder meeting mandatory requirements (select the Low-Bid Version of the RFQ) or the highest-scoring Bidder based on a relatively simple evaluation of price and non-price factors (select the High-Score Version of the RFQ).

RFT

- ☐ You are buying goods or construction through an Open Competition.
- ☐ 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.
- ☐ Note: When using the RFT format, it is strongly recommended that a prequalification process be conducted to ensure that only qualified Bidders are eligible to respond to the RFT. See below for information regarding the RFSQ – Prequalification Version.

No-Negotiation RFP

- ☐ You are buying Deliverables through an Open Competition.
- ☐ There are valid business reasons for requiring legally binding, irrevocable Bids, with or without bid security.
- ☐ You will evaluate both price and non-price factors and will select the highest-scoring Bidder.
- ☐ 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.

Consecutive Negotiation (Rank and Run) RFP

- ☐ You are buying goods, services, or complex construction projects through an Open Competition.
- ☐ Irrevocable Bids are not required.
- ☐ Detailed, innovative, or creative proposals are desired.
- ☐ You will evaluate both price and non-price factors and will rank proposals based on highest score.
- ☐ You may need to adapt the final specifications and/or performance terms based on the successful proposal.
- ☐ There may be a need to negotiate some terms of the final Contract to ensure that they are appropriately tailored to the proponent's proposed solution.
- ☐ You are able to include sufficiently detailed business requirements and technical specifications in the Solicitation Document to allow proponents to

propose fully developed solutions and complete pricing proposals at the submission deadline.

- ☐ You prefer to engage in negotiations with only the top-ranked proponent.
- ☐ You will only engage in negotiations with the next-ranked proponent if negotiations with the top-ranked proponent are unsuccessful.

Concurrent Negotiation (Dialogue/BAFO) RFP

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

RFSQ – Prequalification Version

- ☐ You are buying goods, services, or construction through a two-stage Open Competition.
- ☐ You want to ensure that potential Bidders are sufficiently competent, qualified, and experienced to undertake and successfully complete the project prior to inviting them to Bid on the detailed requirements and specifications of the project.

- ☐ You expect that a large number of potential Suppliers may want to compete for the Contract, and you want to narrow the field prior to soliciting Bids.
- ☐ You will set a limit on the number of eligible Bidders or a minimum threshold score that must be achieved before a potential Supplier will be considered eligible to participate in the second-stage competition.

RFSQ – Roster Framework Version

- ☐ 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 obtain quotes quickly and efficiently from qualified Suppliers that are able to provide the required goods, services, or construction in accordance with established and agreed-upon general Contract terms and conditions.

ANNEX 3.3 – DOCUMENT DRAFTING PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to provide assistance, direction, and suggestions for preparing Procurement plans and Solicitation Documents, including guidelines for developing specifications and selecting the appropriate evaluation methodology and pricing structure. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. General Drafting Principles

These general principles should be considered in drafting the Procurement plan and the Solicitation Document:

Plain and clear language should be used, and technical jargon and vague terms should be avoided.

Where technical terms or specifications are required, they should be set out in a separate section or schedule to the document.

Avoid creating too many defined terms. Defined terms should only be used where (i) the meaning is not clear from a plain reading; and (ii) the term is used throughout the document. Use defined terms consistently throughout the document. Do not capitalize terms that are not defined.

Avoid repeating the same information in different sections of the document. If it is necessary to repeat information, ensure that it is repeated using the same language and terminology to avoid any inconsistencies or contradictions.

Avoid using acronyms that may not be understood by everyone. If the use of acronyms is necessary, spell them out in full the first time they are used in the document.

Ensure that Contract performance and other contractual terms are not buried in the specifications or evaluation sections but are appropriately included in the term sheet or form of agreement.

Ensure that the document is carefully proofread, preferably by someone other than the drafter. Inconsistent terminology, vague wording, typographical errors, grammatical errors, and incorrect spelling can all create uncertainty in the meaning and interpretation of the terms and conditions in the document.

3. Initial Mapping Statement

Before beginning to draft any of the Procurement project details, the Department Lead should draft an initial mapping statement that clearly describes what is being purchased. The initial mapping statement is essential in

major projects with many stakeholders, and it is also very important in smaller, routine purchases in order to ensure a smooth and efficient drafting process.

4. Requirements and Specifications

The subject-matter experts from the relevant Department(s) are responsible for preparing 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 sought or accepted from a potential Supplier or any person that may have a commercial interest in the procurement.

The format of the Solicitation Document will dictate the level of specificity that is required for requirements and specifications:

- (a) 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; or
- (b) if the requirements cannot be clearly defined before the Solicitation Document is issued (in other words, proponents will be proposing creative solutions or proponent specifications will be evaluated during the Competitive Process), and the selected format contemplates negotiation of the final Contract, then the specifications can be drafted with less specificity.

The requirements should describe the tasks that the successful Bidder will be expected to complete during the term of the Contract. There are different approaches to describing the tasks and effort required, for example:

- (a) 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;
- (b) 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; and
- (c) a detailed or “prescriptive” statement of work will describe how the work must be accomplished, including precise measurements, tolerances, materials, quality control requirements, or the like.

Irrespective of the approach, it is important that:

- (a) the Deliverables are clearly identified, including the timelines and location for delivery;
- (b) reporting and communication requirements are identified, including any requirements for progress or status reports; and
- (c) 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 Services.

Specifications for goods may include any or all of the following:

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

Specifications and requirements must be designed to encourage open, fair, and transparent competition and must not be written in a way that unduly restricts Suppliers from bidding.

Technical specifications must be generic, functional, and non-biased specifications that do not have the purpose or effect of creating unnecessary obstacles to international trade. Where appropriate, they must be set out in terms of performance and functional requirements, rather than design or descriptive characteristics, and must be based on international standards, if they exist, or otherwise on recognized national standards.

Technical specifications must not require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer, or Supplier, unless there is no other sufficiently precise or intelligible way of describing the requirements and, in such cases, the words such as "or equivalent" must be included.

5. Material Disclosures

In order to solicit competitive and responsive pricing during a Competitive Process, it is essential that Bidders know all material information relating to the procurement.

Only the Department's subject-matter experts will be in a position 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 subject-matter experts for every Procurement since failure to do so could expose the City to legal, financial, and reputational risk.

Material disclosures include information, such as:

- (a) reports relating to the procurement, including engineering, consulting, environmental, or site reports;
- (b) unusual conditions that may affect price (for example, soil conditions, delivery restrictions, or timing requirements or restrictions);
- (c) contractual performance terms;
- (d) indemnity, performance security, and insurance requirements; and
- (e) specific processes or procedures expected of the successful Bidder that are outside standard industry practice.

6. Pricing Structure Selection

6.1 General Principles

With the exception of a Request for Supplier Qualifications ("RFSQ") process in which pricing information is not requested, it is essential that the Solicitation Document include a clear pricing structure. The pricing structure must be clearly set out in the Solicitation Document so that Bidders know exactly how to submit pricing and so that pricing can be evaluated fairly and defensibly.

Choosing an appropriate pricing structure will depend on what is being purchased; where applicable, ensure that the pricing structure aligns with industry standards.

Regardless of the pricing structure employed, the Solicitation Document must clearly state what is included or not included with respect to pricing (for example, is the submitted pricing all-inclusive or are certain expenses allowed to be charged in addition, such as delivery charges). The pricing structure must also clearly indicate that taxes should be separately stated.

In addition to setting out the selected pricing structure, the Solicitation Document must also include the payment structure. For example, will the entire amount owed be paid at the end of the Contract or will the Supplier be able to

bill at regular intervals, upon completion of phases, or at specific payment milestones? The payment terms that will apply to the payment of invoices should also be set out in the Solicitation Document.

6.2 Pricing Structures

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 appropriate for your procurement.

- (a) **Lump Sum** (also referred to as “flat fee,” “firm price,” and “total price”) – The Bidder submits a total price to provide the Deliverables, which is not subject to adjustment after the Contract is awarded. This model is only appropriate when 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.
- (b) **Unit Prices** – The Bidder submits a per-unit price for the Deliverables, and that unit price is then multiplied by the required quantity. Similar to the lump-sum pricing structure, this pricing structure requires exact specifications for the Deliverables required. In order 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 (for example, hourly rates, price per unit or per kilogram) in the Solicitation Document.
- (c) **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 required, the lump-sum or unit-price model can be used in conjunction with a predetermined price adjustment. In order to be defensible, the price adjustment should be tied to objective criteria in the marketplace or subject to an objective, predetermined formula.
- (d) **Time and Materials** – This pricing structure is used to solicit competitive pricing when it cannot be estimated how much time or materials will be required to complete the project. This pricing structure allows some flexibility in pricing; however, in order to avoid costly budget overruns, this pricing model must include clearly described Deliverables, and it requires careful project management to ensure efficient use of resources. The time-and-materials pricing components should each have clear metrics (for example, hourly or per diem rates, set pricing for required materials). This pricing model can also be used for longer-term service Contracts where a service or good is required 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 (for example, indexed to inflation).

- (e) **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 represents 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.
- (f) **Licence Fees** – Common in the software industry, this pricing structure involves a set licence fee tied to specific rights of use (for example, number of users, number of computers on which software can be installed).
- (g) **Budget-Based Bidding** – This is a less common form of pricing structure, which can be used when there is a set amount of money budgeted for a project and the Department wishes to get the most value for that budget amount. The total budget is disclosed in the Solicitation Document and Bidders propose solutions that provide the most Deliverables they can within the set budget amount. The disclosure of budget may result in less competitive Bids, but it can be a useful method when there is concern that the scope of the project may otherwise result in Bids that exceed the available budget.
- (h) **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:
 - i. purchase price;
 - ii. life span of products;
 - iii. transportation and handling;

- iv. installation and associated costs;
- v. staff training;
- vi. operation and supplies (including any costs associated with disposal of waste/spent supplies);
- vii. energy and fuel costs;
- viii. maintenance and repairs; and
- ix. end-of-life disposal costs.

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

7. Evaluation Methodology

In order to run a defensible Competitive Process, the evaluation methodology that will be used to determine the successful Bidder(s) must be fully disclosed in the Solicitation Document. Failure to fully disclose the evaluation methodology, including all factors to be considered in determining the successful Bidder(s), may constitute hidden criteria that could expose the City 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 must only be used for those eligibility requirements that are absolutely essential.

There are two basic evaluation methodologies:

- (a) lowest price; and
- (b) evaluated criteria where price and specified qualitative factors are allocated a certain weighting.

When using an RFSQ as part of a two-stage Competitive Process, the RFSQ must disclose the basis on which Bidders will be considered eligible to proceed to the subsequent stage of the Procurement process. Eligibility could be determined by obtaining a threshold score (for example, Bidders with a score of 65% or greater will be prequalified) or by being ranked within the specified number of top-scoring Bidders (for example, the top three Bidders will be prequalified).

7.1 Low-Price Evaluation

When the Bids are being evaluated only on price, this must be clearly set out in the Solicitation Document and no other factors can be used to determine the

successful Bidder. If a Department wants to select the preferred Bidder based on lowest price but also consider other qualitative factors, such as previous experience, then they should consult with Procurement Services 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, 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.

7.2 Evaluated Criteria

When multiple criteria will be considered in the evaluation of Bids, the criteria and the relative weighting for each of the criteria must be disclosed in the Solicitation Document. When several different factors will be considered in the evaluation of a particular criterion, the sub-criteria and sub-weightings should also 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 and presentations can either be given a predetermined weight or can be used to confirm or adjust the scores assigned in the evaluation of the paper-based proposal.

When both price and non-price factors are being evaluated, the method for evaluating price and calculating dollars into points must be disclosed. Generally, price is scored by dividing the lowest overall price submitted during the Competitive Process by the price submitted by each Bidder, and then multiplying that value by the weighting allocated to price (as below):

$$\text{lowest proposed price} \div \text{Bidder's proposed price} \times \text{weighting}$$

The scores for qualitative factors and the score for price are combined and Bidders are ranked based on highest total score.

8. Integration of Components

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

9. Version Control – Reviewing and Revising

When a Solicitation Document needs to be reviewed and edited by multiple stakeholders, the editing process must be well co-ordinated 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:

- (a) Determine who is responsible for incorporating all comments and revisions into the draft document and preparing the final version;
- (b) Ensure stakeholders are clear on what sections of the document they are responsible for reviewing;
- (c) Have only the person responsible for the final document assign new version names to the document (for example, "RFP v. 2.0");
- (d) When making electronic changes to the document, everyone involved in revising 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 (for example, "RFP v. 2.0 – changes by AB Jan 14").

Retain copies of all stakeholder comments/markups in the Procurement file.

ANNEX 4.1 – INVITATIONAL COMPETITION PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to set out the steps and identify roles and responsibilities for conducting an Invitational Competition. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Responsibility for Conducting Invitational Competitions

The Department has the authority to conduct an Invitational Competition. The process will be conducted by the Department Lead with the assistance, as required, of Procurement Services. The Department must select a minimum of three (3) Bidder's to participate in the Invitational Competition.

The Procurement Supervisor may delegate the authority to conduct an Invitational Competition to a Department, on either a standing basis or a case-by-case basis. Where a Department has delegated authority to conduct an Invitational Competition, the Department Manager is responsible and accountable for ensuring the process is conducted in accordance with this protocol.

3. Preparing the Solicitation Document

The Invitational Request for Quotation ("RFQ") template is the standard format for Invitational Competitions. If the Department wishes to use a different format, please consult with Procurement Services.

The information contained in the Procurement Plan will be used to assemble the Solicitation Document.

The principles and guidelines in the Document Drafting Protocol should be followed and the following must be confirmed before the Solicitation Document is finalized:

- (a) the most up-to-date template is used;
- (b) all material information relevant to the Procurement has been disclosed;
- (c) all evaluation criteria that will be considered in the evaluation of Bids are disclosed;
- (d) the terms and conditions of the Procurement Contract are included in the Solicitation Document; and
- (e) there is alignment between the technical requirements and specifications, the pricing structure, and the Contract terms and conditions.

4. Approval of the Solicitation Document

The Department Lead must review the final Solicitation Document with the Department Manager, prior to issuance. As required, consultation may be sought from the Procurement Supervisor.

5. Issuance of the Solicitation Document

Email may be used for the issuance of the Solicitation Document. Invited Suppliers must be given a reasonable period of time to submit their Bids.

6. Communication with Bidders and Addenda Process

All communications with the invited Bidders must be in writing, by email, through a single contact person designated in the Solicitation Document. Any other individual who receives inquiries from Bidders must direct those Bidders to the designated contact person.

If questions are received from any invited Bidder during the Procurement process, the questions and their corresponding answers should be consolidated into a question and answer ("Q&A") document that is issued by email to all of the invited Bidders. The Q&A document should not identify the Bidder(s) that asked the question(s).

Any changes to the Solicitation Document must be communicated to all Bidders through a written addendum issued in the same manner as the Solicitation Document. If an addendum containing significant new information is released close to the submission deadline, the submission deadline should be extended to allow the Bidders a reasonable period of time to review and respond to the addendum.

7. Receipt of Bids

Bids must be in writing and may be submitted by email or another electronic submission method specified in the Solicitation Document. Bids must be received in the manner set out in the Solicitation Document. Bids received prior to the submission deadline must be kept confidential until the submission deadline has passed. After the submission deadline has passed, Bids must be opened and reviewed to determine if all mandatory submission requirements have been met in accordance with the process set out in the Solicitation Document.

8. Evaluation of Bids

The Department is responsible for establishing the evaluation team and conducting the evaluation process in accordance with the evaluation methodology disclosed in the Solicitation Document. Where the evaluation is based only on price, the Bids must be reviewed by at least the Department

Lead and Procurement Services. Where the Solicitation Document includes evaluation criteria in addition to price, the Bids should be evaluated by a minimum of three evaluators, as assigned by the Department Lead. Evaluators must be familiar and knowledgeable regarding the scope of the solicitation. Evaluators should be internal stakeholders. In the absence of internal stakeholders, an external subject matter expert may be engaged (please consult with Procurement Services before engaging external subject matter experts).

9. Selection of Preferred Bidder(s)

The Department is responsible for recommending the selection of the preferred Bidder(s) (a minimum of three (3) Bidder(s) must be engaged) based on the results of the evaluation process in accordance with the Solicitation Document. The Department's recommendation to award a Contract to the preferred Bidder(s) must be approved by Procurement Services. The Contract Award Approval form in Appendix A should be completed and submitted to the Procurement Supervisor. All individual evaluator score sheets, the summary score sheet and any applicable notes in support of the scores must accompany the form.

Procurement Services will send the selected Bidder a notice of selection asking the Bidder to satisfy any conditions of award set out in the solicitation.

10. Contract Finalization

Once all required approvals are obtained and any conditions of award are satisfied, a Purchase Order attaching or referencing the Contract terms and conditions set out in the Solicitation Document will be issued by Procurement Services or, if a legal agreement is to be signed by the City and the Supplier, the agreement will be executed in accordance with the Authorization Schedule.

11. Notification of Unsuccessful Suppliers

After the Contract with the selected Supplier has been finalized, the Department Lead will promptly notify the unsuccessful Suppliers of the outcome.

12. Communication with Suppliers Regarding Outcome

Any requests for debriefing or any questions or complaints about the outcome of the process must be directed to the contact person designated in the Solicitation Document. If a debriefing is held, it should be conducted in accordance with the Bidder Debriefing Protocol.

13. Documentation

The Department Lead is responsible for providing to Procurement Services, all the below noted documents. Procurement Services is responsible for creating

and maintaining a Procurement file containing copies of the following documents:

- (a) the approved Procurement Authorization Form;
- (b) records of any communications with invited Suppliers;
- (c) copies of all addenda that were issued to Suppliers;
- (d) all Bids received from Suppliers;
- (e) any notes with respect to the review and evaluation of Bids;
- (f) documented approval for the Contract award; and
- (g) the Purchase Order and any other Contract documents.

APPENDIX A – INVITATIONAL COMPETITION CONTRACT AWARD APPROVAL

Department:	
Department Lead:	
Date:	

Description of the Deliverables:	
Recommended Supplier Name:	
Total Procurement Value:	
Funding Source:	

Date RFQ Issued:	
Submission Deadline:	

Invited Supplier Name	Quote Received	Met Requirements	Amount of Quote	Total Score (if applicable) *
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	\$	

Add more rows as necessary.

*Total score is only applicable if the evaluation process included non-price rated criteria.

Department Lead:	Signature: Date:
Procurement Supervisor:	Signature: Date:

ANNEX 4.2 – NON-STANDARD PROCUREMENT PROTOCOL

1. Purpose

The purpose of this protocol is to set out the procedures and requirements for acquiring Deliverables through a Non-Standard Procurement process. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Non-Standard Procurement

“Non-Standard Procurement” means the acquisition of Deliverables through a process or method other than the standard method required for the type and value of the Deliverables. Non-Standard Procurement methods include:

- (a) acquiring Deliverables directly from a particular Supplier without conducting a Competitive Process when an Invitational Competition or an Open Competition would normally be required; and
- (b) soliciting Bids from a limited number of Suppliers without conducting an open prequalification process when an Open Competition would normally be required.

3. Authorization for Non-Standard Procurement

To obtain authority for a Non-Standard Procurement, the Department must complete the Non-Standard Procurement Authorization Form (Appendix A) (the “Authorization Form”). Non-Standard Procurement may be permitted only if one or more of the reasons in the Authorization Form apply to the procurement.

The completed Authorization Form must be approved and signed in accordance with the Non-Standard Procurement Authorization Schedule (Annex 1.2, Appendix A), prior to acquiring any goods or services or engaging in any Contract negotiations with a Supplier.

4. Contracts for Non-Standard Procurements

When a non-competitive Procurement is authorized, the Department is responsible for negotiating and finalizing the Contract for the Deliverables in accordance with the Procurement Policy and the Negotiation Protocol. Departments are encouraged to consider the guidance on pricing structure selection and describing the requirements and specifications set out in the Document Drafting Protocol.

5. Non-Standard Procurement Report

In addition to the general record-keeping requirements under the Procurement Policy, a written report must be prepared for each Contract awarded through a Non-Standard Procurement, including the value and kind of goods or services procured and a statement indicating the circumstances and conditions that

justified the use of a Non-Standard Procurement. The report and any supporting documentation, including the approved Procurement Authorization Form must be maintained for a minimum of three years from the Contract award date, or such longer period as may be required under the City's document management policies.

6. Notice of Award

If the Procurement Value is equal to or greater than the applicable Open Competition Threshold, Procurement Services must publish the notice of award online within 72 days of the Contract award. 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 a Non-Standard Procurement.

APPENDIX A – NON-STANDARD PROCUREMENT AUTHORIZATION FORM

Department:	
Department Lead:	
Date:	

Description of Deliverables:	
Recommended Supplier:	
Procurement History:	<p>Has the Department previously acquired similar Deliverables through a Non-Standard Procurement?</p> <p>YES / NO</p> <p>If yes, were the Deliverables previously acquired from the recommended Supplier?</p> <p>YES / NO</p>
Proposed Contract Term: Indicate initial term and any optional extension terms.	
Estimated Procurement Value:	
Funding Source:	

Identify the reason(s) for the Non-Standard Procurement:	
<input type="checkbox"/>	An Open Competition was conducted for the required goods or services and did not result in the receipt of any valid Bids.
<input type="checkbox"/>	<p>The Procurement is for:</p> <p><input type="checkbox"/> Goods intended for resale to the public</p> <p><input type="checkbox"/> Goods purchased on a commodity market</p> <p><input type="checkbox"/> Financial services</p>

	<input type="checkbox"/> Health services <input type="checkbox"/> Social services <input type="checkbox"/> Services provided by licensed lawyers or notaries <input type="checkbox"/> Services of expert witnesses or factual witnesses used in court or legal proceedings
<input type="checkbox"/>	The goods and/or services are to be procured from: <input type="checkbox"/> Government entity <input type="checkbox"/> Philanthropic institution <input type="checkbox"/> Persons with disabilities <input type="checkbox"/> Non-profit organization* <i>*This reason does not apply to procurements that are covered by the Canada-European Union Comprehensive Economic and Trade Agreement (the "CETA").</i>
<input type="checkbox"/>	It can be demonstrated that the goods or services can be supplied only by a particular Supplier and no alternative or substitute exists for the following reason(s): <input type="checkbox"/> There is an absence of competition for technical reasons. <input type="checkbox"/> Patents, copyrights, or other exclusive rights must be protected. <input type="checkbox"/> The requirement is for a work of art.
<input type="checkbox"/>	The Procurement is for additional deliveries by the original Supplier of goods or services that were not included in the initial Procurement if a change of Supplier for such additional goods or services: <ul style="list-style-type: none"> • cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and • would cause significant inconvenience or substantial duplication of costs for the City.
<input type="checkbox"/>	The Procurement is for goods or consulting services regarding matters of a confidential or privileged nature and the disclosure of those matters through an Open Competition could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or be contrary to the public interest.
<input type="checkbox"/>	The Procurement is for: <ul style="list-style-type: none"> <input type="checkbox"/> a prototype or a first good or service to be developed in the course of and for a particular Contract for research, experiment, study, or original development, but not for any subsequent purchases. <input type="checkbox"/> goods available under exceptionally advantageous circumstances that arise only in the very short term, such as liquidation, bankruptcy, or receivership. <input type="checkbox"/> a Contract to be awarded to the winner of a design contest and the contest was organized in a fair and transparent manner and was advertised by publicly posted notice and participants were judged by an independent jury.
<input type="checkbox"/>	The Procurement is being conducted on behalf of an entity that is not covered by the Procurement Policy or any trade agreement.
<input type="checkbox"/>	Unforeseeable events have resulted in a situation where extreme urgency exists and the goods or services could not be obtained in time through an Open Competition. <i>* The Department Lead must clearly identify and explain the unforeseeable events that brought about the urgency. Failure to plan for and proceed with a Procurement in a timely manner will not be considered a valid reason for a Non-Standard Procurement.</i>

<input type="checkbox"/>	<p>The Procurement Value is below the Open Competition Threshold and it is in the best interests of the City to proceed with a Non-Standard Procurement.</p> <p><i>* The Department Lead must clearly explain why it is in the City's best interest to proceed with a Non-Standard Procurement rather than an Invitational Competition.</i></p>
<input type="checkbox"/>	<p>The Procurement is otherwise exempt from Open Competition requirements under all applicable trade agreements, and it is in the best interests of the City to proceed with a Non-Standard Procurement.</p> <p><i>* The Department Lead must indicate the specific section(s) of the applicable trade agreements that provide for the exemption and clearly explain why it is in the City's best interest to proceed with a Non-Standard Procurement rather than an Open Competition.</i></p>

Insert details to explain and support the identified reason(s) and attach any relevant documentation.

Procurement Authorization

All Non-Standard Procurement Authorization Forms must be approved in accordance with the Authorization Schedule.

Authorized by the Department Manager	Signature: _____ Name: _____ Date: _____
--------------------------------------	--

If the Procurement value is at or above the Open Competition Threshold and below \$250,000.

The General Manager agrees that a Non-Standard Procurement is justified under the circumstances.

Signature: _____

Name: _____

Title: _____

Date: _____

If the Procurement value is at or above the Open Competition Threshold and below \$500,000.

The CAO agrees that a Non-Standard Procurement is justified under the circumstances.

Signature: _____

Name: _____

Date: _____

If the Procurement value is at or above \$500,000

Authorization of Council must be obtained and attached to this form.

ANNEX 5.1 - OPEN COMPETITION PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to set out the steps and identify roles and responsibilities for conducting an Open Competition. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms) in the Procurement Policy.

2. Responsibility for Conducting Open Competitions

Open Competitions will be conducted by Procurement Services with the assistance and co-operation of the Department. Departments are not permitted to conduct Open Competitions without the involvement of Procurement Services.

3. Preparing the Solicitation Document

The appropriate Solicitation Document format must be determined in consultation with Procurement Services using the Format Selection Protocol. The information contained in the Procurement Plan and the template for the selected format will be used to assemble the Solicitation Document.

When preparing a Solicitation Document for an Open Framework Competition to establish a Qualified Supplier Roster, refer to the Qualified Supplier Rosters Protocol.

The principles and guidelines in the Document Drafting Protocol should be followed. All items in the Solicitation Document Checklist (Appendix A) must be confirmed before the Solicitation Document is finalized.

4. Approval of Solicitation Document

Both the Department and Procurement Services must review the assembled Solicitation Document to ensure that all of the requirements in the Solicitation Document Checklist (Appendix A) are met and must approve the final Solicitation Document prior to issuance.

5. Procurement Notice

Procurement Services is responsible for posting notice of the Procurement online. Suppliers must be able to access the notice free of charge. The Procurement Notice Checklist (Appendix B) must be used to ensure all required information is included in the notice.

6. Posting Solicitation Document

Procurement Services is responsible for posting the Solicitation Document online. The Solicitation Document should be posted at the same time as the notice.

7. Time Period for Bid Submission

Suppliers must be provided sufficient time to prepare and submit responses to the Solicitation Document. The minimum time periods set out below require that both the notice of Procurement and the Solicitation Document are posted and available to Suppliers electronically in accordance with Sections 5 and 6 above.

If responses are accepted by electronic means, Suppliers must be given a minimum of 25 calendar days to respond to the Solicitation Document. A longer response time may be considered reasonable based on the nature and complexity of the procurement.

If electronic submission of responses is not permitted, a minimum time period of 30 calendar days must be provided.

A shorter time period is not advisable and may only be considered under the following circumstances:

- (a) There is a state of urgency that does not allow for the regularly required time period, whereby a valid reason for the urgency must be substantiated and documented. Lack of advance planning will not be considered a valid reason.
- (b) The Procurement is solely for commercial goods or services and Bids are accepted by electronic means. "Commercial goods or services" means goods or services of a type generally sold or offered for sale in the commercial marketplace to, and customarily purchased by, non-governmental buyers for non-governmental purposes.
- (c) A limited number of prequalified Suppliers are being invited to respond to a second-stage competitive procurement.

In any of the above cases, the minimum time period must not be less than ten calendar days.

8. Communication with Potential Bidders and Addenda Process

- (a) All communications with potential Bidders after the posting of the Solicitation Document must be made in writing through a single contact person designated in the Solicitation Document. The designated contact person must be a representative of Procurement Services.
- (b) Any Department employee or any other individual who receives inquiries from potential Bidders must direct those Bidders to the designated contact person in Procurement Services and must not discuss the Procurement with any potential Bidder or Supplier.

- (c) It is recognized that there may be instances where Department employees have ongoing relationships with Suppliers with respect to existing Contracts and that those Suppliers may be potential Bidders in other procurements. In such instances, Department employees are not prevented from speaking to such Suppliers with respect to ongoing projects and Contracts, but they should refrain from discussing upcoming or active procurements.
- (d) All Bidder questions must be submitted in writing to the designated contact person. The designated contact person will forward all questions of a technical nature to the Department. The Department will provide the responses to Procurement Services, and Procurement Services will consolidate all Bidders' questions and the responses and post the consolidated question and answer ("Q&A") document as an addendum. The Q&A document should not identify which Bidder asked which question. Questions that are duplications may be consolidated, so long as all legitimate Bidder questions and concerns are addressed.
- (e) All changes to the Solicitation Document must be communicated to all Bidders through a written addendum issued by Procurement Services. If the Department needs to make changes to a Solicitation Document after it has been posted, all such changes (including changes to the scope, evaluation criteria or schedule) must be provided to Procurement Services. Procurement Services will prepare the addendum and provide it to the Department for review and approval. Once approved, the addendum will be issued by Procurement Services in the manner set out in the Solicitation Document.
- (f) If an addendum containing significant new information or modifications is released close to the submission deadline, Procurement Services must extend the submission deadline to allow Bidders a reasonable period of time to review and respond to the addendum.

9. Receipt of Bids

Procedures for the receipt, opening, and treatment of Bids must guarantee the fairness and impartiality of the Procurement process and the confidentiality of Bids.

If Bids are received electronically, the system must establish time of receipt and Bids must not be accessed until the submission deadline has passed.

If Bids are received physically, the submissions must be time-stamped upon receipt, must be securely stored, and must not be opened until the submission deadline has passed.

Suppliers must not be penalized for the late submission of a Bid if the delay in receiving the Bid is due solely to mishandling on the part of the City.

10. Review of Mandatory Submission Requirements

To be considered for an award, a Bid must be compliant with the essential requirements set out in the notices and Solicitation Document and be from a Supplier that satisfies any conditions for participation.

Once the Bids have been opened, Procurement Services must review all Bids to ensure compliance with the mandatory submission requirements set out in the Solicitation Document. Where no rectification period has been allowed for in the Solicitation Document, those Bids that do not meet the mandatory submission requirements are disqualified and must not be evaluated further.

If the Solicitation Document provides for a rectification period, Procurement Services will send any Bidder that did not meet a mandatory submission requirement a rectification notification informing them that it will have the opportunity to meet the mandatory submission requirement within the specified rectification period. After the expiration of the rectification period, any Bidders that have failed to meet all mandatory submission requirements are disqualified and must not be evaluated further. The Bids that have satisfied the mandatory submission requirements will be provided to the Department for evaluation. Note that a rectification period is applicable only if explicitly provided for in the Solicitation Document and must never be included in a legally binding Contract-A Solicitation Document.

11. Evaluation of Bids

The evaluation process must be fair, defensible, and transparent and must comply with the evaluation methodology disclosed in the Solicitation Document.

Departments are responsible for establishing the evaluation team and conducting the evaluation process. A minimum of three evaluators must participate in the evaluation process. Whenever possible, a representative of Procurement Services will serve as a facilitator and advisor to the evaluation team. The evaluation team must ensure that the evaluation plan as indicated in the Solicitation Document is followed and that the scoring of the Bids is defensible.

All evaluation team members must sign a declaration in the form of the Evaluator Participation Attestation Form included in the Oversight and Delegation Protocol stating that they have no conflicts of interest in respect of the Procurement process and agreeing to keep the content of Bids and the

evaluation confidential and to conduct the evaluation process in accordance with the standards set out in that attestation.

11.1 Assessment of Mandatory Technical Requirements

The evaluation team will assess whether the Bids satisfy the mandatory technical requirements set out in the Solicitation Document. Bids that do not satisfy the mandatory technical requirements will be disqualified and must not be evaluated further.

If there is uncertainty with respect to whether or not a Bid satisfies a mandatory technical requirement, the evaluation team must consult with Procurement Services to determine the appropriate course of action.

Where it is clear that a Bid fails to satisfy any mandatory technical requirement, the evaluation team must notify Procurement Services.

Procurement Services is responsible for notifying a Bidder that their Bid has been disqualified. Under no circumstances is the evaluation team or any other Department employee to communicate directly with Bidders regarding the evaluation process.

11.2 Low-Bid Evaluation

In a low-bid evaluation process, the Contract is awarded to the Bidder that submitted the compliant Bid with the lowest price.

Once the mandatory requirements have been reviewed, Procurement Services will review the compliant Bids and determine the lowest submitted price.

11.3 Evaluated Criteria (High-Score) Evaluation

Where the Procurement process involves the evaluation of multiple criteria, the Contract is awarded to the highest-scoring Bidder.

Each individual evaluator should review each Bid individually. Each Bid should be evaluated on its own merits. Evaluators must evaluate using the pre-established evaluation criteria and weightings as set out in the Solicitation Document and must evaluate only the materials included in the Bidder's Bid.

Individual evaluators should make notes, including their scores and any comments supporting their scores based on the established evaluation criteria. Evaluators must remember that all evaluation notes are potentially subject to public release under access to information legislation and therefore all written comments must be fair, defensible, and transparent.

If an evaluator believes clarification is needed in respect of information contained in a Bid, they should make a note of it for discussion with the

evaluation team. Under no circumstances should an evaluator attempt to contact or communicate directly with a Bidder.

Once all evaluators have conducted their individual evaluations, the entire evaluation team should meet to finalize their scores in accordance with the Enhanced Consensus Scoring Protocol.

If the evaluation team wishes to seek clarification from a Bidder in respect of information contained in its Bid, the evaluation team must consult with Procurement Services. The evaluation team should prepare a draft of the clarification questions it proposes to ask the Bidder for review by Procurement Services. If determined to be appropriate, Procurement Services will send the clarification request to the Bidder. The Bidder's response will be provided to Procurement Services. Procurement Services will review the response from the Bidder and, if it is determined to be appropriate, will provide it to the evaluation team.

Once the evaluation of non-price factors has been completed and the scores for the non-price factors have been totalled, the evaluation team should factor in the evaluation of price in accordance with the method set out in the Solicitation Document.

11.4 Interviews and Presentations

Where expressly set out in the Solicitation Document, interviews and presentations may be used during an evaluation process. Interviews and presentations should be scheduled in advance to allow Bidders the opportunity to prepare. All Bidders should be provided with the same amount of time for the interview and presentation and be provided with the same level of review. The evaluation of interviews and presentations must be consistent with the process set out in the Solicitation Document.

11.5 Concurrent Negotiations and Best and Final Offer ("BAFO") Process

Where expressly set out in the Solicitation Document, the evaluation process may include a process for engaging in negotiations or discussions with a short-list of Bidders followed by the submission of BAFOs.

In such cases, the evaluation team will evaluate the original Bid submissions and will create a short-list based on the results of those evaluations and the process set out in the Solicitation Document. The Department Lead is responsible for submitting a recommendation for selection of the short-listed Bidders to Procurement Services for approval. Procurement Services will notify the selected Bidders that they have been selected, facilitate the scheduling of the negotiation sessions, and manage the submission process for the BAFOs. Those

involved in conducting the concurrent negotiations should refer to the Commercially Confidential Meetings Protocol and to the Negotiation Protocol for guidance.

The deadline for the submission of BAFOs must provide the same amount of time for all participating bidders to submit their BAFOs. BAFOs must then be evaluated in accordance with this procedure and the process set out in the Solicitation Document.

12. Selection of Preferred Bidder(s)

The preferred Bidder(s) will be determined based on the results of the evaluation process in accordance with the Solicitation Document.

Where the competition is intended to result in the award of a Contract to the selected Bidder, the Department Lead, in consultation with Procurement Services, is responsible for submitting a recommendation for selection of the preferred Bidder for approval, in accordance with the Authorization Schedule.

Where the competition is intended to result in the prequalification of Bidders that will be eligible to participate in a second-stage Competitive Process, the Department Lead, in consultation with Procurement Services, is responsible for submitting a recommendation for prequalification of the preferred Bidder for approval, in accordance with the Authorization Schedule. Procurement Services will be responsible for notifying the Bidders of the outcome of the prequalification process.

All selection decisions must be authorized in accordance with the Authorization Schedule.

13. Contract Negotiation and Award

Where the Solicitation Document provides for Contract negotiations with the preferred Bidder, Procurement Services will send the selected Bidder a notice of selection inviting the Bidder to enter into Contract negotiations. Those involved in Contract negotiations should refer to the Negotiation Protocol for guidance.

Where the Solicitation Document does not provide for negotiation of the Contract with the selected Bidder(s), the selected Bidder(s) must enter into the form of Contract included in the Solicitation Document, and Contract negotiations are not generally permitted. Procurement Services will send each selected Bidder a notice of selection asking the Bidder to satisfy any conditions of award set out in the Solicitation Document.

All Contract award decisions must be authorized in accordance with the Authorization Schedule.

The Contract is awarded once negotiations are successfully completed, if applicable, and all conditions of award set out in the Solicitation Document have been satisfied. If a legal agreement is to be signed, the Contract is awarded when both the Supplier and the City have signed the agreement. In the absence of a signed legal agreement, the Contract is awarded at the time a Purchase Order is issued to the Supplier.

Contracts must be issued or executed in accordance with the Authorization Schedule.

14. Cancellation of Competitive Process

Where the deadline for submission of Bids has passed and Bids have been received, the Procurement process must not be cancelled without the approval of Procurement Services, in consultation with Legal Services where necessary.

15. Notification

Unsuccessful Bidders must be promptly informed of Contract award decisions.

16. Debriefings

Unsuccessful Bidders may request a debriefing. When requested, debriefings must be scheduled and conducted by Procurement Services and the appropriate Department representative in accordance with the Bidder Debriefing Protocol.

17. Notice of Award

Within 72 days of awarding a Contract, a notice of award must be published online and must remain readily accessible for a reasonable period of time. The Procurement Notice Checklist (Appendix B) must be used to ensure all required information is included in the notice.

18. Documentation

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

- (a) the approved Procurement Authorization Form;
- (b) the Procurement Plan;
- (c) the final Solicitation Document(s);
- (d) records of any communications with Bidders or potential Bidders;
- (e) copies of all addenda;

- (f) copies of all Bids received from Bidders;
- (g) all records of evaluation processes, including evaluator notes and final scores;
- (h) the final recommendation memo together with all required approvals;
- (i) records of any debriefing requests and outcomes; and
- (j) records of any Supplier complaints and related correspondence.

APPENDIX A – SOLICITATION DOCUMENT CHECKLIST

The following must be confirmed before the Solicitation Document is finalized:

- ☐ The most up-to-date template is used.
- ☐ All material information relevant to the Procurement has been disclosed, including:
 - ☐ a complete description of the procurement, including the nature and the quantity of the goods or services to be procured; or if the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, requirements for servicing or warranty; transition costs, if applicable; and applicable conformity assessment certification, plans, drawings, or instructional materials;
 - ☐ any conditions for participation of Suppliers, including a list of information and documents that Suppliers are required to submit in connection with the conditions for participation;
 - ☐ a clear description of the method that will be used to evaluate Bids and select the successful Bidder(s);
 - ☐ all evaluation criteria, and, unless price is the sole criterion, the weighting of the criteria;
 - ☐ submission instructions, including any authentication and encryption requirements or other requirements related to the submission of information by electronic means;
 - ☐ any dates for the delivery of goods or the supply of services, which must take into account such factors as the complexity of the procurement, the extent of subcontracting anticipated, and the realistic time required for producing, de-stocking, and transporting goods from the point of supply or for supply of services; and
 - ☐ other material terms and conditions, including terms of payment.
- ☐ The terms and conditions of the Contract are appropriately contained in the term sheet or form of agreement.
- ☐ There is alignment between the technical requirements and specifications, the pricing structure (where applicable), and the Contract terms and conditions.

- ☐ In the case of a Solicitation Document to establish a Standing Offer, the Solicitation Document indicates how subsequent purchases will be made from under the Standing Offer.
- ☐ The Solicitation Document does not include:
 - ☐ conditions for participation that are not essential to ensuring that a Supplier has the legal and financial capacities and the commercial and technical abilities to provide the goods or services;
 - ☐ biased or branded technical specifications;
 - ☐ 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 City or have prior experience in a particular geographic location.

APPENDIX B – PROCUREMENT NOTICE CHECKLIST

For each Open Competition, a summary notice, a detailed notice of intended procurement, and a notice of Contract award must be published and must be accessible by electronic means free of charge. Use the checklist below to ensure that all required information is included in the notices.

Summary Notice

A summary notice must be posted online at the same time as the detailed notice and must contain at least the following information:

- ☐ the subject matter of the procurement;
- ☐ information on how to obtain all relevant documents relating to the Procurement process; and
- ☐ the date and time of the submission deadline.

Notice of Intended Procurement

The detailed notice must include all of the following information:

- ☐ procuring entity's name and address;
- ☐ contact information (phone and/or email) of contact person;
- ☐ information on how to obtain all relevant documents relating to the procurement;
- ☐ the cost and terms of payment, if any, for the Procurement documents;
- ☐ a description of the procurement;
- ☐ the nature and the quantity of the goods or services to be procured or, if the quantity is not known, the estimated quantity;
- ☐ the timeframe for delivery of goods or services or the duration of the Contract;
- ☐ a description of any options;
- ☐ the Procurement method that will be used and whether it will involve negotiations or electronic auction;
- ☐ the language(s) in which submissions will be accepted;
- ☐ the date and time of the Bid submission deadline;
- ☐ the location for submission;

- ☐ if there will be a public opening, the date and time of the public opening; and
- ☐ an indication that the Procurement is covered by Chapter 19 of the *Canada-European Union Comprehensive Economic and Trade Agreement* (the "CETA") and/or Chapter 5 of the *Canadian Free Trade Agreement* (the "CFTA").

In the case of a two-stage competition, where the City intends to select a limited number of qualified Suppliers to be invited to participate in the second-stage competition, the notice must include all of the above, and:

- ☐ the criteria that will be used to select them and, if applicable, any limitation on the number of Suppliers that will be permitted to participate in the second-stage competition.

Notice of Contract Award

Within 72 days of awarding a Contract, a notice of award must be published online and must remain readily accessible for a reasonable period of time.

The notice must include at least the following information:

- ☐ the name and address of the procuring entity;
- ☐ the name and address of the successful Supplier;
- ☐ a description of the goods or services procured;
- ☐ the value of the successful Bid or the highest and lowest offers taken into account in the award of the Contract;
- ☐ the date of award; and
 - ☐ the type of Procurement method used.

APPENDIX C – EVALUATOR PARTICIPATION ATTESTATION FORM

THIS ATTESTATION is made in relation to the City of Sarnia's **[**RFX NUMBER, RFX NAME **]** and is effective as of the date of its signing as set out below.

[NAME OF EVALUATOR**]**

Whereas I have been selected to perform the role of an evaluator for the above-noted procurement process, I hereby attest and agree as follows:

ARTICLE 1.0 – NO CONFLICTS AND ONGOING DISCLOSURES

I understand and affirm, as a pre-condition of my participation in the evaluation process, that I am free from any perceived, potential, or actual Conflicts of Interest (including any personal financial interest, whether direct or familial, in the outcome of the procurement process, or bias for or against any party competing for the contract award) that could adversely impact the fairness and integrity of the evaluation process that I participate in. I also understand that I have an ongoing responsibility to disclose any actual or potential conflicts that I may discover during the evaluation process and that I may need to recuse myself from further participation in the evaluation process if a newly discovered conflict could prejudice my ability to continue in my role as an evaluator.

For the purposes of this form, "Conflict of Interest" is defined as:

- (a) when applied to the activities of the purchasing institution and its consultants and service providers: (i) a conflict between one's private interests and one's public, fiduciary, or contractual duties in relation to any procurement activity; or (ii) engaging in any conduct that may give another party an unfair advantage in a procurement process; or
- (b) in relation to a bidding process, a bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to: (i) having, or having access to, confidential information of the purchasing institution in the preparation of its bid that is not available to other bidders; (ii) having been involved in the development of the solicitation document, including having provided advice or assistance in the development of the solicitation document; (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the solicitation document; (iv) communicating with any person with a view to influencing

preferred treatment in the bidding process (including, but not limited to, the lobbying of decision-makers involved in the bidding process); or (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive bidding process or render that process non-competitive or unfair; or

(c) in relation to the performance of its contractual obligations, a contractor's other commitments, relationships, or financial interests: (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

Initial Here: _____

ARTICLE 2.0 – SUBJECT MATTER KNOWLEDGE FOR INDEPENDENT EVALUATION

I have sufficient knowledge of the evaluation criteria I have been asked to apply to the supplier submissions to independently perform my role as an evaluator without relying on other evaluators or third parties to assist me in my application of those criteria to the supplier submissions. If at any stage of this process I am unable to independently apply the evaluation criteria to those submissions, it is my responsibility to notify the evaluation moderator to determine whether I may need to recuse myself from scoring that evaluation category or from my overall participation in the evaluation process.

Initial Here: _____

ARTICLE 3.0 – NO DEVIATION FROM EVALUATION CRITERIA OR PROCESS

I understand that my role as an evaluator is to apply the pre-established evaluation criteria and procedures to the supplier submissions I have been asked to evaluate and that I cannot change the pre-established evaluation criteria, apply additional evaluation criteria that are not included in the pre-established criteria, or deviate from the evaluation procedures that I am directed to follow by the evaluation moderator.

Initial Here: _____

ARTICLE 4.0 – MAINTAINING EVALUATION RECORDS

I understand that I am responsible for maintaining my own evaluation scores and notes supporting my evaluation scoring in the manner prescribed by the evaluation moderator. I understand that all evaluation records are potentially

subject to public release under access to information legislation and all written notes must be clear, fair, and defensible.

Initial Here: _____

ARTICLE 5.0 – PARTICIPATION IN EVALUATION

I understand that I must prioritize my role as an evaluator to meet the evaluation schedule and that my commitment to the evaluation process includes finishing my independent individual evaluation scoring, including supporting notes, in the format prescribed by the evaluation moderator, prior to formal group evaluation meetings. I understand that I will not be required to change any scores as a result of any group scoring discussions. If, in exercising my independent judgment, I determine after group evaluation discussions that any of my scores require adjustment, I understand that any such changes to my scores must be supported with updated scoring notes explaining the reason for that change.

Initial Here: _____

ARTICLE 6.0 – CONFIDENTIALITY OF EVALUATION PROCESS

I understand that I am not permitted to discuss the evaluation process with other evaluators or third parties, except during formal moderated group evaluation meetings. I understand that, apart from formal moderated group evaluation meetings, I am not permitted to contact or communicate with any supplier competing for the contract award. If I believe that clarification is needed in respect of information contained in a supplier's submission, I will notify the evaluation moderator. I understand that my confidentiality duties in relation to the evaluation process (which for greater clarity include treating all of the information received as part of the evaluation process as confidential) continue beyond the conclusion of the evaluation process.

Initial Here: _____

ARTICLE 7.0 – CONFIDENTIALITY OF ROLE AS EVALUATOR

I understand that to protect the evaluation process from interference or allegations of interference, I must keep my role as an evaluator confidential (except for informing my supervisor for work scheduling purposes) so as to prevent others from influencing or attempting to influence my scoring or otherwise influence the outcome of the evaluation process.

Initial Here: _____

ARTICLE 8.0 – DUTY TO REPORT INTERFERENCE

I understand that if anyone attempts to influence my scoring or otherwise attempts to interfere with my role as an evaluator, it is my responsibility to immediately notify the evaluation moderator.

Initial Here: _____

ARTICLE 9.0 – SEEKING CLARIFICATION

I understand that if I have any questions or concerns about my role in the evaluation process, or about the evaluation process more generally, that I should raise those concerns directly with the evaluation moderator and that I should not discuss those concerns with other evaluation group members, project team members, or any other third parties.

Initial Here: _____

ARTICLE 10.0 – STANDING AS EVALUATOR

I understand that my failure to adhere to the due process standards set out in this attestation could, among other things, result in my immediate removal from the evaluation process.

Initial Here: _____

Evaluator Signature

Evaluator Name

Evaluator Title

Date of Signature

ANNEX 5.2 – ENHANCED CONSENSUS SCORING PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to provide direction to evaluation teams in the use of an enhanced consensus scoring method for the evaluation of Bids in a competitive procurement. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms (Schedule A) in the Procurement Policy.

2. Objectives

An evaluation team can use a variety of approaches to arrive at the Bidders' final scores in a competitive procurement. These approaches range from the straight mechanical averaging of the scores assigned by individual evaluators to a full point-by-point group discussion intended to arrive at an agreed-upon score for each of the evaluation criteria.

There are risks associated with the scoring practices at each end of the spectrum. Straight mechanical averaging without any peer review or group discussion can allow evaluator errors or oversights to go unchecked. On the other hand, collective group scoring tends to lead to protracted evaluation sessions and raises concerns about imbalances in influence among evaluation team members, with potential for the bias or preferences of one or more evaluators to affect the overall scores.

The enhanced consensus scoring method described in this protocol is intended to strike a balance between the two extremes by mitigating the risks associated with collective group scoring while providing for a measure of peer review, allowing evaluation teams to operate efficiently within the bounds of their due diligence duties.

3. Overview of the Enhanced Consensus Scoring Method

Enhanced consensus scoring involves identifying and discussing those evaluation criteria where the scores assigned by individual evaluators fall outside of an acceptable range based on a pre-set variation tolerance.

After evaluation team members have been provided sufficient time to conduct individual evaluations and to record their initial evaluation results, the evaluation team will attend one or more enhanced consensus scoring ("ECS") sessions to discuss and finalize the evaluation results.

During the ECS session(s), only the evaluation criteria with scores falling outside the pre-set variation tolerance are discussed. This approach ensures that the evaluation team's discussion is focused on the scoring of the evaluation criteria

with the largest divergence in initial scoring, as those are the most likely to have been affected by errors that could distort the ultimate ranking of Bidders and undermine the fairness of the evaluation process.

Evaluators will have the opportunity to revisit their individual scores and to make any adjustments they determine to be appropriate with the benefit of the group discussions in the ECS session(s). Once the evaluators have been given the opportunity to record any changes they wish to make to their scores, the individual scores for each evaluation criteria are averaged to arrive at the final overall scores.

4. Setting the Variation Tolerance

The variation tolerance should be set before the ECS sessions begin. There is no single formula for determining the variation tolerance, as different scoring systems or rating scales may be used between, and even within, specific Solicitation Documents.

To set the variation tolerance, evaluation teams should define what is an acceptable range of scores based on the rating scale that was used to score a particular evaluation category. For example, if a category was scored on a scale of one to ten, the variation tolerance could be set at three points, so that a range of three points or less in the scores is acceptable. Or, if a category was scored on a scale of one to five, the variation tolerance could be set at two points. See the Example Scenario (Appendix A) for further guidance on setting the variation tolerance.

5. Scheduling and Preparing for the ECS Sessions

Evaluators must be allowed sufficient time to conduct their individual evaluations and to record their initial evaluation results prior to the commencement of the ECS sessions.

ECS sessions should be facilitated by one or more moderators; typically, the moderator is a Procurement advisor who is not a member of the evaluation team. Prior to the scheduled ECS session, any evaluation criteria with scores outside of the variation tolerance should be identified by the moderator. Manual spreadsheets may be used when the evaluation process is relatively simple; automated bid-evaluation tools are recommended for more complex processes.

The moderator should establish an agenda for the ECS session(s) based on the time available for group discussion:

- (a) If there is a limited amount of time for ECS sessions and extending the session or reconvening the evaluation team for additional sessions is not

feasible, moderators must prioritize the evaluation criteria for discussion by scheduling the discussion of the criteria with the most significant divergence in scores first, with the remaining criteria to be discussed in descending order of score divergence. This prioritization will occur with the understanding that the scores for any criteria that have not been discussed by the time the scheduled ECS session concludes will be averaged without discussion in the same manner as the scores that fell within the acceptable range.

- (b) If there is time available to extend the ECS session or reconvene for additional ECS sessions, as needed, a prioritization of the evaluation criteria is not necessary, on the basis that all of the identified evaluation criteria will be discussed before the ECS session(s) conclude.

Additional guidance on the identification and prioritization of the evaluation criteria for discussion at the ECS session is provided in Example Scenario (Appendix A).

The moderator should determine before the ECS session whether evaluators will be required to finalize any adjustments they want to make to their individual scores during the meeting, or if they will be given additional time to submit adjusted scores after the meeting has ended.

6. Conducting the ECS Sessions

The moderator should preside over the group discussion and follow the agenda that was established on the basis of the previously agreed-upon variation tolerance and any decisions regarding prioritization of the discussion of the evaluation criteria.

ECS sessions should be conducted in accordance with the following rules of order, which the moderator should review with the evaluation team at the beginning of the session:

- (a) While it is intended that only evaluation criteria with scores outside the variation tolerance will be tabled for discussion during the session, if the discussion raises issues in relation to other criteria, the group is free to discuss those other criteria as well.
- (b) The evaluator(s) who assigned the lowest score for a criterion will be asked to speak first, followed by the evaluator(s) who assigned the highest score for the same criterion.
- (c) The process will continue with the evaluator with the next lowest score, then next highest, and so on, until each evaluator is given the opportunity to address the criterion.

- (d) While all evaluators will be given the opportunity to speak, evaluators will not be required to speak to any criteria under discussion.
- (e) After each evaluator is given the opportunity to speak, the moderator will open the floor for any additional evaluator comments on that criterion.
- (f) Once there are no more speakers, the moderator will declare the item closed.
- (g) Scores can be adjusted during the course of the meeting or after the meeting, as pre-established by the moderator. Evaluators will not be required to change their initial scores and must not be pressured to do so.
- (h) Evaluators must record the reasons for any changes to their initial scores.

7. Finalizing the Scores

Once the evaluators have been given the opportunity to record any changes to their scores resulting from the ECS session(s), the moderator will compile and average all of the final individual scores for each of the evaluation criteria, including those criteria that were discussed at the ECS session(s) and those that were not, in order to calculate the final overall scores.

8. Record-Keeping

It is critical that a record of every step of the enhanced consensus scoring process be kept for audit purposes. Evaluation team members must maintain records of any notes made during the individual scoring process. Moderators must keep records of the initial individual scoring and the evaluation criteria that were identified as having scores outside the accepted variation tolerance. Clear and concise minutes of every ECS session must be kept and must include the date, time, persons who were present, identification of the moderator, evaluation criteria, and related topics discussed. In addition to the minutes, every evaluator present during the ECS session(s) must maintain any notes they made during the group discussion, including notes of any reasons why individual scores were adjusted as a result of the discussions.

APPENDIX A – EXAMPLE SCENARIO

This example assumes that the evaluation criteria were scored on a scale of zero to four and the variation tolerance has been set at one point, so that a variation in the scores of two points or more will be considered outside of the acceptable range.

Based on this example, the shaded criteria in the table below have been assigned scores that are more than one point apart and, therefore, fall outside of the variation tolerance. The variation in the scores assigned to the unshaded criteria falls within the variation tolerance.

Evaluators	PROPONENT X					
	Scoring of Evaluation Criteria					
	Criterion A	Criterion B	Criterion C	Criterion D	Criterion E	Criterion F
Evaluator 1	2	2	2	3	1	3
Evaluator 2	3	3	3	4	3	3
Evaluator 3	4	3	3	4	0	3
Evaluator 4	3	2	2	4	2	3
Evaluator 5	4	2	2	3	1	4

Evaluators	PROPONENT Y					
	Scoring of Evaluation Criteria					
	Criterion A	Criterion B	Criterion C	Criterion D	Criterion E	Criterion F
Evaluator 1	4	2	2	3	2	3
Evaluator 2	4	1	3	4	2	2
Evaluator 3	4	4	2	4	2	4
Evaluator 4	4	3	2	4	2	0
Evaluator 5	4	3	3	3	2	3

Identification of Criteria for Discussion

Because the scoring falls outside of the variation tolerance, the scoring of Proponent X for Criteria A and E and the scoring of Proponent Y for Criteria B and F would be identified by the moderator for discussion at the ECS session(s).

Prioritization of Criteria for Discussion

If the time allocated to the ECS session(s) is limited, the discussion of the criteria would be scheduled in the following order:

1. Proponent Y, Criterion F (scores are four points apart)

2. Proponent X, Criterion E (scores are three points apart)
3. Proponent Y, Criterion B (scores are three points apart)
4. Proponent X, Criterion A (scores are two points apart)

Rules of Order for Discussion

During the ECS session, when the evaluation team is discussing Proponent Y, Criterion F, the moderator will invite the evaluators to speak in the following order:

1. Evaluator 4 (lowest score)
2. Evaluator 3 (highest score)
3. Evaluator 2 (second-lowest score)
4. Evaluator 1 and Evaluator 5 (second-highest scores)

After each evaluator has had an opportunity to speak, the moderator will invite all evaluators to share any additional comments they wish to make.

ANNEX 5.3 – COMMERCIALLY CONFIDENTIAL MEETINGS PROTOCOL

1. Purpose

The purpose of this protocol is to provide direction to project teams and evaluation teams in the use of a commercially confidential meeting (“CCM”) during the dialogue phase of a competitive procurement.

2. Objectives and Risks

A competitive procurement process can be designed to include a dialogue phase that involves holding CCMs with short-listed proponents. During a CCM, there is moderated dialogue between the evaluators and the short-listed proponent in an effort to clarify and come to a common understanding of the solicitation requirements and the proponent's proposal. The objective of the CCM is to have an open discussion between both parties in order for the short-listed proponent to generate a responsive Best and Final Offer (“BAFO”) submission.

There are risks associated with bringing together evaluators and short-listed proponents during the active evaluation stage of the procurement process. Arguably the greatest risks are the possibility of uneven disclosure of information from one short-listed proponent to another and the potential for inappropriate disclosure of one proponent's confidential information to another proponent.

In all competitive procurement processes, including those that involve a dialogue phase, public purchasers must protect the integrity of the process and adhere to policy objectives, legal standards, and trade treaty obligations.

In the context of conducting CCMs, this involves:

- ensuring that no proponent is given preferential treatment or unfair advantage;
- protecting proponents' confidential and proprietary information; and
- upholding the rules and requirements of the process.

The CCM method described in this protocol is intended to satisfy the objectives of the dialogue phase, while mitigating the risks associated with dialogue between the evaluators and short-listed proponents.

3. Overview of the CCM Method

During the planning stages of the RFP drafting process, it is important for the project team to determine whether they have a need to engage in dialogue with short-listed proponents. Project teams need to consider whether the complexity of the project calls for an evaluation that goes beyond the

assessment of written submissions. Other interactive evaluation stages, such as interviews, site visits, and demonstrations, could be considered. If evaluators would benefit from active dialogue with short-listed proponents, then a dialogue phase should be included in the procurement process.

In order to hold CCMs with proponents during the procurement process, the Solicitation Document needs to describe the dialogue phase within the stages of the evaluation process and clearly disclose how proponents will be selected for inclusion on the short-list. During the procurement process, the evaluation team must follow the stated process and must short-list proponents based on the disclosed criteria and selection method.

After the selection of short-listed proponents, evaluators will need to identify areas for discussion and clarification for each short-listed proponent. Prior to their CCM, each short-listed proponent is provided with a list of the areas for discussion and clarification and the questions that will be asked of them. The short-listed proponents may also be asked to provide a list of any questions they have for the evaluators in advance of the CCM.

There is no scoring component to the CCMs. Short-listed proponents are expected to use the information they have been provided in the CCM to inform their BAFO submission.

4. Scheduling and Preparing for the CCMs

Evaluators must be allowed sufficient time to prepare their areas of discussion, clarifications, and questions for each of the short-listed proponents prior to the CCMs. Short-listed proponents must also be allowed sufficient time to organize the appropriate team members for attendance at the CCM, as well as consider and prepare their responses to the clarification requests and questions issued by evaluators.

Each short-listed proponent must be given an equal amount of time for their respective CCM.

The time that each short-listed proponent has to prepare for the CCM should also be the same, which means the list of discussion points, clarifications, and questions should be sent to each short-listed proponent the same number of days in advance of their scheduled CCM.

The CCMs should be scheduled as close together as possible. Ideally, no more than one or two days apart, in order to maintain a level playing field for preparation and submission of the BAFOs. In cases where an extended dialogue phase is needed and CCMs will be more spread out, legal counsel should be

consulted to determine how best to schedule the corresponding BAFO submission deadlines.

CCMs should be facilitated by one or more moderator(s); typically, the moderator is a procurement advisor who is not a member of the evaluation team. The CCM should also be attended by administrative staff dedicated to capturing detailed contemporaneous notes during the meeting. The contemporaneous notes are integral to the information filtering process required for CCMs.

The moderator should establish an agenda for the CCM based on the time available for discussion.

Prior to each CCM, the evaluators and the moderator(s) need to meet in order to consider any questions that have been submitted by short-listed proponents (if this was requested) and to determine who will respond to any questions the proponents may spontaneously ask during the CCM.

5. Protecting Confidentiality

CCMs must be carried out individually with each short-listed proponent on the basis of the ideas and solutions of the proponent concerned. It is not appropriate to use one proponent's commercially sensitive and confidential information to enhance other proponents' solutions.

The evaluation team must not reveal proposed solutions or other confidential information communicated by a proponent without the proponent's consent and must not request that a proponent adopt a concept or option offered by another proponent.

6. Conducting the CCMs

The moderator should preside over the CCM and follow the established agenda.

CCMs should be conducted in accordance with the following rules, which the moderator should review with the evaluation team and the short-listed proponents at the beginning of the meeting:

- (a) Each short-listed proponent is given the same amount of time for the CCM.
- (b) Each CCM will have in attendance all evaluators, the moderator(s), and administrative staff in charge of taking contemporaneous notes for the benefit of the organization.

- (c) Short-listed proponents are responsible for taking their own notes. Minutes from the CCM will not be issued.
- (d) After the review of notes from each of the CCMs, a consolidated set of non-confidential responses to questions will be issued to all short-listed proponents.
- (e) Not all questions asked by short-listed proponents can or will be answered during the CCM. The organization may choose to respond to a question asked during the CCM at a later time, prior to the BAFO submission deadline.

7. CCM Evaluator Debrief and Supplementary Disclosures

After each CCM, or at the end of the final CCM, evaluators must co-ordinate with the moderator(s) and administrative staff to review the information that was shared with each short-listed proponent. Each item captured in the notes must be reviewed individually and considered as follows:

- (a) Was the information different from, or an expansion on, what was presented previously in the RFP, addenda, or other communications?
- (b) If yes, was the information specific to the proposed approach or confidential information submitted by that short-listed proponent only?

If the answer to (a) is yes and the answer to (b) is no, then the information must be consolidated into a list of supplementary disclosures that will be shared with all short-listed proponents. The consolidated list should be given to all short-listed proponents as soon as possible in order to give them the opportunity to incorporate the information into their BAFO submission.

8. Record-Keeping

It is critical that a record of every step in the CCM process be kept for audit purposes. Evaluation team members must maintain records of any individual notes made during the CCM process. Clear and concise contemporaneous notes from every CCM session must be kept and must include the date, the time, the people who were present, as well as identification of the moderator(s) and any administrative staff. In addition to the contemporaneous notes, the review process used to generate the consolidated list of supplementary disclosures must also be maintained.

ANNEX 5.4 – NEGOTIATION PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to establish guidelines and procedures for negotiating with Bidders or Suppliers. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Negotiation with Supplier in a Non-Competitive Procurement

If Deliverables are being acquired from a particular Supplier without conducting a Competitive Process, the Contract for the Deliverables will be negotiated directly with the Supplier. Although no Solicitation Document is issued, it is important that clearly drafted and detailed requirements and specifications be prepared during the Procurement planning stages to ensure that the Deliverables being acquired meet the needs of the organization and are suitable for their intended purpose. The requirements and specifications, along with the appropriate standard form of agreement will serve as a starting point for the negotiations with the Supplier. In some cases, it may be appropriate to provide the requirements and specifications to the Supplier and seek a written proposal or quotation for the Deliverables prior to commencing negotiations. In such cases, the Supplier's proposal will also provide a starting point for the negotiations.

3. Negotiation with Bidders in a Competitive Process

3.1 The Solicitation Document

Negotiation with Bidders will only be part of a competitive Procurement process if the Deliverables are procured through the issuance of Negotiated Request for Proposal ("RFP") Solicitation Document. There are two different types of Negotiated RFP processes: the consecutive negotiation (rank and run) process and the concurrent negotiations (dialogue/best and final offer ("BAFO")) process. General descriptions of these processes are set out below, but it is critical that the negotiation process for a particular Procurement project be conducted in accordance with the process described in the Negotiated RFP document that is issued for that Procurement project.

3.1.2 Consecutive Negotiations (Rank-and-Run) Process

In the consecutive negotiations process, the top-ranked proponent is invited to enter into negotiations to finalize the agreement. The time period for the negotiations is specified in the RFP. If the time period expires and negotiations have been unsuccessful (in other words, an agreement has not been reached with the top-ranked proponent), the negotiations can be terminated and the next-ranked proponent can be invited to enter into negotiations. Note that the

right to terminate negotiations should be exercised only when it is clear that the parties are not able to come to a satisfactory agreement. If positive progress is being made at the time the negotiation period expires, the negotiation period should be extended to attempt to finalize the agreement with the top-ranked proponent; however, if at any time following the expiration of the negotiation period the negotiations break down and it is clear that a satisfactory agreement cannot be reached, the right to terminate negotiations and move on to the next ranked proponent can be exercised.

3.1.2 Concurrent Negotiations (Dialogue/BAFO) Process

In the concurrent negotiations (dialogue/BAFO) process, a short-list of top-ranked proponents is invited to enter into concurrent negotiations. This means that separate negotiations are held with each of the short-listed proponents during the same period of time. The time period for the concurrent negotiations can be set at the time of inviting the short-listed proponents to enter into negotiations, and can be extended as required; however, it is important to give all short-listed proponents equal time and opportunity to engage in negotiations. At the completion of the negotiation sessions, each of the short-listed proponents must be invited to submit their BAFO. These offers should be submitted by a set date and time and evaluated based on set criteria. Normally they are evaluated on the same criteria as the initial proposals. If additional criteria will be considered in the evaluation of BAFOs, those criteria must be set out in the RFP. Undisclosed criteria cannot be considered in evaluating BAFOs. Based on the results of the evaluation of BAFOs, the top-ranked proponent should be selected and invited to enter into negotiations to finalize the agreement. In most cases, this final round of negotiations should proceed quickly, as most details will have been sorted out during the concurrent negotiations and reflected in the BAFO; however, this is an opportunity to confirm and clarify any details in the BAFO and ensure all details are clearly included in the finalized agreement.

3.2 Purpose and Scope of Negotiations in a Competitive Process

A Negotiated RFP contemplates a transparent negotiation phase with the top-ranked proponent(s). Negotiations are an opportunity to clarify requirements and proposal details to ensure the proponent understands the project and the negotiation team understands what the proponent is proposing. The negotiation team may seek improvements to the proposal, including improvements to performance terms and proposal pricing.

It is expected that the terms and conditions in the standard form of agreement included in the RFP will be a starting point for the negotiations; however, the negotiation process is intended to enable commercially reasonable adjustments

and clarifications to the legal terms and conditions contained in the standard form of agreement, so that the awarded Contract is better tailored to fit the nature of the Deliverables and the circumstances of the project. Substantive changes to your standard terms and conditions should only be made in consultation with Legal Services.

The scope of the negotiation phase can vary greatly depending on the nature and complexity of the project. Not all negotiated Procurement processes require extensive formal negotiations. In some cases, negotiations can be as simple as a teleconference with the selected proponent to confirm the details of their proposal and discuss any minor changes to the standard form of agreement. In such cases, some of the procedures set out in this protocol may not apply.

3.3 Parameters for Negotiating in a Competitive Process

In all competitive Procurement processes, including those that involve negotiations with proponents, public purchasers must protect the integrity of the Procurement process and adhere to policy objectives, best practices, and trade treaty obligations.

In the context of conducting negotiations in a Competitive Process, this involves:

- (a) ensuring that no proponent is given preferential treatment or unfair advantage;
- (b) protecting proponents' confidential and proprietary information;
- (c) upholding the rules and requirements of the process; and
- (d) contracting for the Deliverables that were the subject of the competition.

3.3.1 Ensuring No Preferential Treatment or Unfair Advantage

During concurrent negotiations, the negotiation team must ensure that proponents are given fair and equal treatment.

Reasonable accommodations should be made in the scheduling of negotiation sessions, and an equal amount of time should be allocated to negotiations with each proponent.

Information must not be provided to proponents in a discriminatory manner that may give some proponents an advantage over others.

3.3.2 Protecting Confidentiality

RFP processes are intended to encourage innovation, which means asking proponents to share their ideas and sensitive commercial information. Negotiations should be carried out individually with each proponent on the

basis of the ideas and solutions of the proponent concerned. It is not appropriate to use one proponent's commercially sensitive and confidential information to enhance other proponents' solutions.

Negotiation teams must not reveal proposed solutions or other confidential information communicated by a proponent without the proponent's consent and must not request that a proponent adopt a concept or option offered by another proponent.

3.3.3 Upholding the Rules and Requirements of the Process

Negotiations should be conducted in accordance with the rules of the Solicitation Document, and changes that materially alter the requirements of the process should not be permitted.

A material change is any change, irrespective of value, which would have:

- (a) allowed other potential Suppliers to participate in the RFP process, or another proposal to be accepted;
- (b) changed the evaluation and scoring of proposals; or
- (c) affected the ranking and potentially resulted in the selection of a different proponent.

Negotiations tend to involve give and take on many issues and it may be possible to justify a concession on one point by demonstrating a benefit obtained on a different point; however, when major concessions are made to alter or remove critical Contract terms or minimum performance requirements, the other proponents may argue that had they known the concession was going to be made, they would have been able to make their proposal more attractive.

Challenges can also arise when negotiations with the top-ranked proponent are unsuccessful and a Contract is successfully negotiated with the next-ranked proponent. If the negotiation team agrees to a concession in reaching a Contract with the second proponent that it refused to agree to in the first round of negotiations, this may be considered unfair to the first proponent.

In general, the more prescriptive the RFP is in terms of establishing minimum requirements and dictating mandatory specifications or methodologies, the more limits there will be on what is open to negotiation.

3.3.4 Contracting for the Deliverables that were Subject to Competition

The negotiation team must not depart from the original intent, goals, and objectives of the solicitation and must not negotiate an agreement that is

materially different in scope from what was described in the Solicitation Document.

Negotiating a Contract for a scope of Deliverables that was not the subject of the competition is unfair to the other proponents that participated in the process and may be considered a violation of open competition requirements under applicable trade treaties.

Trade treaty violations may occur if the scope of work or project requirements are changed so much that other Suppliers could reasonably claim they were not given an opportunity to compete for the Contract that is ultimately awarded.

Just as a significant increase in the scope of an existing Contract may be considered a direct award of a Contract that ought to have been the subject of a competitive Procurement process, the same argument can be made if the scope of the Contract that was contemplated in the Solicitation Document is increased during the negotiation process.

4. Planning for Negotiations

Advanced planning is required for an effective and efficient negotiation process. Prior to entering into negotiations, the Department should:

- (a) establish the negotiation team and roles and responsibilities of the team members;
- (b) ensure the negotiation team has the authority to negotiate and understand any limits on that authority;
- (c) confirm the availability of expert advisors, including legal, financial, and technical, as necessary;
- (d) ensure all team members have a clear understanding of the project requirements and objectives and, in the case of a Competitive Process, have thoroughly reviewed the RFP document and the proponent's proposal;
- (e) compile a list of all issues that need to be addressed in the negotiations, including any questions or concerns about the proposal;
- (f) identify and prioritize the objectives of the negotiations;
- (g) identify any non-negotiable items; and
- (h) consolidate all of the documents the negotiation team will need to refer to during the negotiations (for example, the RFP, proposal, issues list, etc.)

5. Initiating Negotiations

When inviting Bidders or Suppliers to enter into negotiations, it should be clearly communicated that entering into negotiations does not create any obligations to proceed with an agreement. It may be helpful to have the Bidder(s) or Supplier(s) submit a list of the issues they want to address in the negotiations prior to the first meeting.

6. Conducting Negotiations

When conducting negotiations, it is important to:

- (a) identify key issues at the outset of the negotiation process;
- (b) ensure that everyone involved in the negotiations is aware that any agreements that are reached are subject to approval and no legally binding commitments are made until the final agreement is signed;
- (c) ensure that information given in confidence by Bidders or Suppliers is not revealed to others;
- (d) take a collaborative approach and avoid being defensive or aggressive;
- (e) take time to consider all information presented, and verify and confirm information as necessary; and
- (f) clearly document areas of agreement as the negotiations progress to avoid revisiting issues multiple times.

7. Record-Keeping

It is critical that a record of all negotiations be kept for audit purposes. If negotiations are conducted through written correspondence, copies of all such correspondence must be kept in the file. Clear and concise minutes of any in-person or telephone meetings, including date, time, persons present, topics discussed, and outcomes, must be kept.

8. Finalizing the Agreement

Whatever is agreed upon between the parties in the negotiations must be included in the Contract in clear language. The final agreement must address all details of the agreed-upon Deliverables and all of the contractual rights and obligations of the parties. If modifications are to be made to the terms and conditions of the City's standard form of agreement, the negotiation team must engage Legal Services to provide advice and assist in drafting new and/or amended terms and conditions.

ANNEX 6.1 – BIDDER DEBRIEFING PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to provide assistance and direction to individuals involved in conducting debriefings requested by Bidders in respect of a procurement. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Bidder's Right to a Debriefing

Upon request, an unsuccessful Bidder must be provided with an explanation of the reasons its Bid was not selected and the relative advantages of the successful Bidder's Bid.

Debriefings are an important component of a competitive Procurement process and provide an opportunity to:

- (a) recognize the efforts Bidders make in responding to Solicitation Documents issued by the City;
- (b) assist the Bidder in understanding why its Bid was not selected and address questions and concerns in a non-confrontational manner; and
- (c) provide constructive criticism and suggestions for improvements so that unsuccessful Bidders have a better opportunity at winning future Bids, which can result in the City having access to more qualified Bidders that are better able to compete for the City's business.

When debriefing unsuccessful Bidders, care must be taken not to provide information that might prejudice fair competition between Suppliers.

3. Responsibility for Conducting Debriefing

Debriefings must be conducted by representatives of both Procurement Services and the Department responsible for the procurement. The Department representative should be a member of the evaluation team and be knowledgeable in all aspects of the Bid and the evaluation process. Where the Procurement involves more than one Department, additional representatives may attend, but attendance should generally be limited to two or three individuals.

4. Initiation and Scheduling of a Debriefing

A debriefing is initiated only at the request of a Bidder. Requests for a debriefing should be directed to the contact person identified in the Solicitation Document (the "contact person"). Bidders are expected to make their request within 30 days of the notification of the outcome of the Procurement process. Requests

for a debriefing that are made after this time period may be considered by the City on a case-by-case basis.

The contact person is responsible for communicating and scheduling the debriefing with the Bidder's representative. Debriefings may occur in person at the City's offices or by way of teleconference, depending on the location of the requesting Bidder. Procurement Services and Departments should be as flexible as possible, within reason, with respect to scheduling Bidder debriefings.

5. Preparing for the Debriefing

Prior to the debriefing, the Procurement Services and Department representatives should prepare the necessary materials, including obtaining a copy of the Bidder's Bid for reference purposes and preparing discussion points based on the suggestions for conducting a debriefing set out below. The materials for the meeting must be distributed in advance to all Department and Procurement Services representatives who will be attending the debriefing.

For major projects or where there is reason to believe that the Bidder requesting the debriefing may be considering legal recourse against the City in connection with the Procurement process, Procurement Services and the Department should consult with Legal Services to discuss any additional considerations.

6. Conducting the Debriefing

6.1 Suggested Structure

The following is a suggested structure for conducting a debriefing:

- (a) introductions and reiteration of the purpose of the debriefing;
- (b) overview of the Bidder's Bid, including where the Bidder lost significant points in the City's evaluation process;
- (c) discussion of suggestions on how the Bidder could improve their Bid for future opportunities; and
- (d) questions and answers.

6.2 Permissible Debriefing Discussion Topics

The following **may** be discussed in a debriefing:

- (a) general overview of the evaluation process;
- (b) the name, address, and total price of the successful Bidder;
- (c) specific evaluation information related to the criteria used to evaluate the Bids;

- (d) the Bidder's evaluation score and strengths and weaknesses of the Bidder's Bid in relation to the evaluation criteria and the relative advantages of the successful Bidder's Bid;
- (e) the Bidder's evaluation ranking (for example, third out of five);
- (f) suggestions on how the Bidder could improve a future response to a Procurement opportunity issued by the City;
- (g) specific questions and issues raised by the Bidder in relation to the above topics;
- (h) feedback from the Bidder on the City's Procurement processes and practices; and
- (i) any information that was shared publicly as part of the Procurement process.

6.3 Prohibited Debriefing Discussion Topics

The following **must not** be discussed in a debriefing:

- (a) information that might prejudice fair competition between Suppliers;
- (b) confidential or proprietary information that would prejudice the legitimate commercial interests of third parties, including the protection of intellectual property; and
- (c) personal information about an identifiable individual.

6.4 Information Requests

If a Bidder requests access to procurement-related records in the City's custody or control, and it's unclear if the information is subject to protection under access to information legislation, the Bidder should be informed that the request will be considered and that they will be notified of the response within a reasonable period of time. Following the debriefing, Procurement Services must consult with [the officer or employee responsible for managing access to information requests on behalf of the City] regarding the Bidder's request. If the record is directly related to the Procurement process and would normally be disclosed in response to a formal access to information request, the record should be provided to the Bidder as soon as reasonably possible without requiring the Bidder to make a formal access request. If the record does not relate to the Procurement process or would not be disclosed in response to a formal access to information request, the Bidder should be informed that the requested information will not be provided. If the Bidder has further questions or concerns about access to the information, they should be directed to contact the City's Clerks.

6.5 Challenges

Challenges to the Procurement process should not be debated during the debriefing. If a Bidder is dissatisfied with the outcome of the Procurement process, Procurement Services should inform them that the next step is to formally challenge the procurement, in accordance with the steps outlined in the Procurement Protest Protocol.

7. Debriefing Follow-Up

Following the conclusion of a debrief meeting, an internal memo outlining the outcome of the debriefing, including all questions raised by the Bidder and any comments or feedback that the Bidder had about the City's processes, should be prepared and reviewed by the Department and Procurement Services representatives involved and included in the Procurement file.

Following the debriefing, if there are concerns that a Bidder is contemplating challenging the Procurement process, Procurement Services and the Department should inform and consult with Legal Services.

ANNEX 6.2 – PROCUREMENT PROTEST PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to set out the process for Suppliers to make a formal complaint about a particular Procurement process. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Scope of the Procurement Protest Process

The Procurement protest process set out in this protocol is meant to provide an opportunity for Suppliers to voice complaints and to assist the City in identifying any gaps or shortcomings in its Procurement policies and practices. The Procurement protest process is intended to help resolve issues that involve no significant factual or interpretive disagreement between the parties. It is not intended to resolve fundamental disputes over facts or legal rights and obligations or to establish a mechanism to adjudicate such disputes.

3. Application

- (a) Where the Supplier is a Bidder that is challenging a Competitive Process, the Supplier must request and attend a debriefing prior to engaging in the Procurement protest process.
- (b) The Procurement protest process set out in this protocol shall not be used to challenge a Procurement process in respect of which the Supplier has commenced legal proceedings against the City.
- (c) The process provided for in this protocol is separate and distinct from any dispute resolution processes that may be provided for under applicable trade agreements. If a Supplier wishes to dispute a matter or bring a complaint under an applicable trade agreement, the Supplier must follow the process set out in the trade agreement, which may differ from the process set out in this protocol.

4. Procurement Protest Process

A Supplier that wishes to challenge a Procurement process must do so by submitting a request for review in writing within 60 days from notification of the outcome of the Procurement process. Requests for review will not be addressed under this protocol until after the City has publicly posted or otherwise provided formal notification of the outcome of the Procurement process.

A request for review of a Procurement process must be directed to Procurement Services and must contain the following:

- (a) a clear statement as to which Procurement the Supplier wishes to challenge;
- (b) a clear explanation of the Supplier's concerns with the procurement, including specifics as to why it disagrees with the Procurement process or its outcome; and
- (c) the Supplier's contact details, including name, telephone number, and email address.

Within five business days from receiving the Supplier's request for review, Procurement Services will send an initial response to acknowledge receipt and indicate the date by which the City will provide the Supplier with a formal response. In general, the City will endeavour to make a determination and provide a formal response within 20 business days from receipt of the Supplier's request for review.

Procurement Services will conduct an initial review of the Supplier's request for review and will consult with all other staff or representatives involved in the Procurement process in order to compile any background information and documentation relevant to the Procurement process and the Supplier's concerns.

Procurement Services will submit the Supplier's request for review and the compiled background information and documents to Legal Counsel.

Procurement Services will convene a meeting with Legal Counsel and the relevant Department Manager ("the Parties"), to review and consider the Supplier's request for review and all internally compiled background information and documents.

Upon completion of its review, the Parties will make a determination and issue a response to the Supplier as follows:

- (a) If the Parties find that the Supplier's rationale for requesting a review of the Procurement process does not have merit, then it will issue a response to the Supplier indicating that the Parties have reviewed its concerns and provide reasons for its determination; or
- (b) If the Parties find that the Supplier's concerns in respect of the Procurement process have merit, then they will further determine the appropriate resolution to the matter. In making its determination, the Parties may consider any factors they considers relevant, including:
 - i. whether the complainant participated in the Procurement process or was prevented from doing so;

- ii. the seriousness of any deficiency found in the Procurement process;
- iii. the degree to which the complainant was prejudiced by any deficiency in the Procurement process; and^[1]_{SEP}
- iv. whether all involved Agencies acted in good faith.

Upon making their determination, the Parties will issue a response to the Supplier indicating its proposed resolution to the matter, if any, and indicating any changes that will be made to the City's policies and practices to help prevent similar issues arising in future Procurement processes. Any such response will be provided to the Supplier on a without-prejudice basis.

If the Supplier is not satisfied with the response, the Supplier may consider its other options, including challenges under the applicable trade agreements and/or governing laws.

ANNEX 6.3 – CONTRACT MANAGEMENT PROTOCOL

1. Purpose and Interpretation

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 procured by the City. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. General Principles

Contract management begins with the awarding of a Contract and should continue 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.

The 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.

3. Roles and Responsibilities

3.1 Role of Department Managers and Their Designates

It is the role and responsibility of the Department Manager or Designate to:

- (a) assign a Contract Administrator to each Contract for Deliverables procured by the Department;
- (b) provide support and advice to the Contract Administrator as required;
- (c) ensure that all Contract Administrators in the Department are appropriately trained, have knowledge and understanding of applicable policies and protocols, and are able to fulfill the role of Contract Administrators as set out in this protocol; and
- (d) monitor and ensure compliance with this protocol and the Supplier Performance Evaluation Protocol.

3.2 Role of Contract Administrator

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

- (a) be familiar with and understand all of the terms and conditions of the Contract;
- (b) create a file for the retention of all documentation related to the Contract, as further described in Section 5 of this protocol;

- (c) facilitate and maintain a professional working relationship with the Supplier;
- (d) ensure all Contracts are complete and accurate and executed prior to the commencement of any work or deliveries;
- (e) ensure all invoices are complete and accurate prior to approving payment;
- (f) review invoices in a timely manner and ensure approved payments are made in accordance with the payment terms in the Contract;
- (g) liaise with Procurement Services in respect of options to renew or extend contracts;
- (h) 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.;
- (i) meet with the Supplier at appropriate intervals to discuss any performance issues or concerns;
- (j) formally evaluate the Supplier's performance in accordance with the Supplier Performance Evaluation Protocol;
- (k) document all communications related to the Supplier's performance of the Contract;
- (l) consult with Legal Services, as necessary, with respect to interpretation of the terms and conditions of the Contract; and
- (m) seek advice from Legal Services, as necessary, with respect to compliance issues and Contract disputes.

3.3 Role of Legal Services

It is the role and responsibility of Legal Services to:

- (a) respond to requests for assistance from the Contract Administrator with respect to:
 - i. inadequate Supplier performance, non-compliance with Contract terms and conditions, or Contract disputes that may have a negative impact and/or potentially lead to legal action;
 - ii. Contract amendments or requests from the Supplier for the assignment of a Contract;

- iii. interpretation of terms and conditions under the Contract and the remedies for breach of Contract provided for in the Contract and/or at law;
- (b) provide advice in a timely manner once advised that a Supplier has initiated or threatened legal action against the City at any time throughout the life of the Contract; and
- (c) provide advice in a timely manner once advised that the Supplier may be, or is about to be, declared bankrupt or insolvent.

3.4 Role of Procurement Services

Contract management is the responsibility of the Department that is receiving the Deliverables under the Contract. With the exception of Contracts managed by Procurement Services on its own behalf, Procurement Services is not responsible for and should not be involved in the day-to-day management of a Department's Contracts. Procurement Services 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 Interim and Final Performance Evaluation Reports in accordance with the Supplier Performance Evaluation Protocol.

It is the role and responsibility of Procurement Services to:

- (a) provide assistance to Departments and Legal Services in connection with the possibility of early termination of a Contract;
- (b) advise on options and strategies for maintaining stability and supply of the Deliverables in the event of early termination of a Contract;
- (c) maintain detailed documentation of all communications related to Supplier performance; and
- (d) retain copies of all Interim and Final Performance Evaluation Reports, in accordance with the Supplier Performance Evaluation Protocol.
- (e) Track renewal or extension dates and appropriately exercise discretion in respect of options to renew or extend contracts, in liaison with Contract Administrator.

4. Contract Amendments and Scope Changes

Contract extensions and amendments must not be used to expand a Contract beyond what was contemplated under the terms of the Contract and the original Procurement process, or to circumvent the need to procure additional Deliverables through a Competitive Process in accordance with this policy.

During the course of a Contract, additional work may arise that could not be anticipated during the project planning process. Contract amendments for adjustments to the scope of the Contract may be approved if the adjustment is for work that is directly connected or incidental to the original Contract scope.

The expansion or extension of a Contract to procure Deliverables that were not contemplated in the original Procurement is a Non-Standard Procurement and, if the total cumulative value of the additional Deliverables equals or exceeds the Open Competition Threshold, the Non-Standard Procurement must be approved in accordance with the Non-Standard Procurement Protocol. Where a Contract is amended or extended more than once, the total cumulative value of the additional Deliverables includes the value of all previously approved amendments and extensions and the value of the proposed amendment or extension.

If a Contract amendment results in a net increase to the Contract value previously approved, the amendment must be approved in accordance with the Authorization Schedule.

All amendments to an existing Contract must be appropriately documented. Legal Services should be consulted regarding all matters pertaining to Contract interpretation and application, and for any changes, extensions, renewals, or amendments required to be made to any executed Contract.

5. Contract Disputes

All potential Contract disputes with Suppliers must be managed in accordance with the dispute resolution mechanisms outlined in the Contract. Where a Contract is silent on dispute resolution, Departments must ensure that potential disputes are proactively managed and appropriately escalated. Written copies of all communications and correspondence with Suppliers concerning a Contract dispute must be maintained by the Department.

A Contract can be terminated prior to its expiry date only with the involvement of Legal Services and in accordance with the terms and conditions outlined in the Contract.

Legal Services must be promptly advised if a Supplier initiates or threatens legal action against the City at any time throughout the life of the 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).

6. Document Retention and Contract File

Documentation should be up to date and organized in a way that clearly allows for tracking of the receipt of the expected quantity and quality of the

Deliverables under the Contract, timelines for delivery dates, performance milestones, and performance evaluation dates.

Contract Administrators must retain originals or copies of the following documents and records:

- (a) authorization of the award of the Contract to the Supplier;
- (b) Contracts and all related documentation, including, but not limited to, Solicitation Documents, the Supplier's Bid, customized agreements, related drawings, plans, Purchase Orders, schedules, and specifications;
- (c) warranties and/or documented certifications, such as ISO ratings, fitness certificates, and compliance with electrical safety standards;
- (d) insurance certificates, as required by the Contract;
- (e) Surety bonds or other forms of performance guarantees, if required by the Contract;
- (f) 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 initialled and dated by the person doing the review);
- (g) details of any extenuating circumstances that had an impact on Contract compliance (for example, extreme weather, labour disputes, power outages, accidents);
- (h) the date, nature, and outcome (positive or otherwise) of informal performance reviews;
- (i) bills of lading, work orders, service records, invoices, cheque requisitions, etc.;
- (j) change orders detailing new terms that have been negotiated into the Contract, if applicable;
- (k) notes of all verbal discussions regarding Contract compliance;
- (l) written communications, Interim and Final Performance Evaluation Reports completed in accordance with the Supplier Performance Evaluation Protocol, and notices to and from the Supplier;
- (m) notes or minutes of any face-to-face and/or site meetings;
- (n) records of any dispute resolution performance issues and actions taken;
and
- (o) any other relevant communications or documents related to the Contract and/or the Supplier's performance under the Contract.

ANNEX 6.4 – SUPPLIER PERFORMANCE EVALUATION PROTOCOL

1. Purpose and Interpretation

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

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

Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Performance Evaluation

At the outset of the Contract, the Contract Administrator will provide the Supplier with copies of the Interim and Final Performance Evaluation Reports, as created by the Procurement Department, which will be used to rate the Supplier's performance in accordance with this protocol. The Interim and Final Performance Evaluation Reports will be created and posted within the Bids & Tenders platform.

2.1 Interim Evaluation

The Contract Administrator will formally evaluate the Supplier's performance and complete the Interim Performance Evaluation Report (Appendix A) prior to the renewal or extension of the Contract, if applicable, and may formally evaluate the Supplier's performance and complete an Interim Performance Evaluation Report at any time during the term of the Contract, as determined by the Contract Administrator, taking into account the nature, complexity, value, and length of the Contract. In the case of multi-year Contracts, an Interim Performance Evaluation Report should be completed on an annual basis, at a minimum.

2.2 Final Evaluation

The Contract Administrator will formally evaluate the Supplier's performance and complete the Final Performance Evaluation Report (Appendix B) upon completion, expiration, or termination of the Contract.

3. Incident Reports

Specific incidents of poor performance, in particular any incidents related to health and safety matters, should be recorded at the time of occurrence or discovery. The Incident Report (Appendix C) may be used for this purpose. Email correspondence and notes to file (whether in physical or digital format) may

also be used to record details of performance issues and incidents. A copy of the incident report should be provided to the Supplier and, where possible, the Supplier's acknowledgement of the incident should be obtained.

4. Interim Performance Evaluation Report

4.1 Notification of Supplier

Procurement will notify the Supplier of its overall performance rating and provide the Supplier with a copy of the completed and signed Interim Performance Evaluation Report, as facilitated by the Bids & Tenders platform. A copy of the documentation will be provided to the Contract Administrator.

4.2 Performance Issues

If the Supplier receives a "Below Standard" rating on any of the rated criteria in the Interim Performance Evaluation Report, the Contract Administrator, together with Procurement, will meet with the Supplier to clearly identify and discuss the performance issues, determine the corrective action that will be taken to rectify and avoid recurrence of the performance issues, and obtain the Supplier's agreement to take the corrective action within a specified time period.

Following the meeting, Procurement Services will confirm the details and outcome of the discussion in writing to the Supplier and will attach a copy of the written record of the meeting to the Interim Performance Evaluation Report.

The Contract Administrator will inform his or her Department Manager of the performance issues. If the performance issues are not rectified or there is a recurrence of the performance issues, the Contract Administrator will consult with his or her Department Manager, Procurement Services, and Legal Services to determine next steps.

5. Final Performance Evaluation Report

5.1 Performance Issues

If the Supplier receives a "Below Standard" rating on any of the rated criteria in the Final Performance Evaluation Report, the Contract Administrator, together with Procurement Services, will meet with the Supplier to discuss the performance issues and will consider any comments or explanations provided by the Supplier in the finalization of the Final Performance Evaluation Report.

5.2 Recommendation Based on Performance

Based on the final rating of the criteria in the Final Performance Evaluation Report, Procurement Services will make a recommendation to either:

- (a) allow the Supplier to continue participating in future Procurement processes; or

- (b) suspend the Supplier from participating in future Procurement processes for a period of up to three years in accordance with the Supplier Suspension Protocol.

5.3 Recommendation for Continued Participation

If the evaluation results in a recommendation to allow the Supplier to continue participating in Procurement processes, Procurement Services will notify the Supplier of its final rating and the resulting recommendation and provide the Supplier with a copy of the completed and signed Final Performance Evaluation Report.

5.4 Recommendation to Suspend

If the evaluation results in a recommendation to suspend the Supplier from participating in future Procurement processes in accordance with the Supplier Suspension Protocol, the following steps must be taken:

5.4.1 Review by Department Manager

The Contract Administrator will submit the Final Performance Evaluation Report to their Department Manager for review. The Department Manager will ensure that the Final Performance Evaluation Report is complete, will discuss the ratings with the Contract Administrator, and will ask the Contract Administrator to confirm that the Final Performance Evaluation Report accurately reflects the Supplier's performance.

5.4.2 Notification of Procurement Services

The Contract Administrator will inform Procurement Services of the recommendation and provide the Procurement Supervisor with a copy of the Final Performance Evaluation Report.

5.4.3 Preparation of Suspension Recommendation Report

The Contract Administrator will prepare the Suspension Recommendation Report in accordance with the Supplier Suspension Protocol.

5.4.4 Notification of Supplier

In accordance with the Supplier Suspension Protocol, the Procurement Supervisor will notify the Supplier of the decision to recommend suspension and will provide the Supplier with a copy of the Suspension Recommendation Report, attaching the completed and signed Final Performance Evaluation Report. The notice will advise the Supplier of the Supplier Suspension Protocol and the opportunity to respond to the decision to recommend suspension.

6. Decision to Suspend

The decision with respect to suspension of the Supplier will be made in accordance with the Supplier Suspension Protocol. The completed Final

Performance Evaluation Report will be attached to the Suspension Recommendation Report. A decision under the Supplier Suspension Protocol is final.

7. Retention of Evaluation Reports

Procurement Services will retain copies of all Interim and Final Performance Evaluation Reports.

8. Disclosure of Results to Others

The results of any performance evaluation processes are intended to be disclosed internally across Departments and may be disclosed to other government bodies upon request and to any entity for which it can be demonstrated that the Supplier has listed the City as a reference.

9. Consideration of Performance in Evaluation of Bids

The City may consider past performance evaluation results in the evaluation of future Bids from the Supplier, whether or not the past performance resulted in suspension in accordance with the Supplier Suspension Protocol, and the City may exclude a Supplier based on significant or persistent deficiencies in past performance.

APPENDIX A – INTERIM PERFORMANCE EVALUATION REPORT

INTERIM PERFORMANCE EVALUATION REPORT				
SECTION 1 CONTRACT AND SUPPLIER INFORMATION				
Contract #	RFT/RFQ/RFP # (if applicable)	Start Date	Length of Term	Contract Amount
Brief Description of Work				
Contract Administrator's Name			Contract Administrator's Department	
Supplier's Legal Name			Primary Supplier Contact	
Address		Phone	Email	
SECTION 2 PERFORMANCE CRITERIA AND RATING				
[Performance criteria and the rating system that will be used to rate the Supplier's performance in respect of each of the criteria must be developed and set out below. Different categories and performance criteria will likely need to be developed for different types of Contracts.]				
The Rating System				
[Describe the system that will be used to rate the Supplier's performance in respect of each of the criteria and result in an overall rating of "Below Standard," "Standard" and "Above Standard" performance.]				
Category A:			Rating	
1.				
2.				
3.				
4.				
Category A Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard				
Category B:			Rating	

1.	
2.	
3.	
4.	
Category B Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard	
Category C:	Rating
1.	
2.	
3.	
4.	
Category C Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard	
Overall Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard	
SECTION 3 COMMENTS AND EXPLANATIONS	
General Comments Describe the Supplier's overall performance to date:	
Below Standard Ratings Comments must be provided to explain and substantiate any "Below Standard" rating on any of the criteria:	

Above Standard Ratings

Comments must be provided to explain and substantiate any "Above Standard" rating on any of the criteria:

SECTION 4 CONTRACT ADMINISTRATOR'S CONFIRMATION

I have evaluated the Supplier's performance in accordance with the Supplier Performance Evaluation Protocol and have assigned a fair and objective rating to each of the criteria in Section 2 of this Interim Performance Evaluation Report.

Contract Administrator Date

SECTION 5 NOTIFICATION OF SUPPLIER

I notified the Supplier of the overall performance rating and provided the Supplier with a copy of this Interim Performance Evaluation Report on _____.

Contract Administrator Date

This section is to be completed if the Supplier received a "Below Standard" rating on any of the criteria in Section 2.

SECTION 6 MEETING WITH SUPPLIER

I met with the Supplier on _____ to discuss the performance issues that resulted in the "Below Standard" rating, determined the corrective action that will be taken by the Supplier to rectify and avoid recurrence of the performance issues, and obtained the Supplier's agreement to take the corrective action in a specified time period.

I provided the Supplier with a written record of the above-noted meeting dated _____, which I have attached to this Interim Performance Evaluation Report.

Contract Administrator Date

APPENDIX B – FINAL PERFORMANCE EVALUATION REPORT

FINAL PERFORMANCE EVALUATION REPORT				
SECTION 1 CONTRACT AND SUPPLIER INFORMATION				
Contract #	RFT/RFQ/RFP # (if applicable)	Start Date	Length of Term	Contract Amount
Brief Description of Work				
Contract Administrator's Name			Contract Administrator's Department	
Supplier's Legal Name			Primary Supplier Contact	
Address		Phone	Email	
SECTION 2 PERFORMANCE CRITERIA AND RATING				
[Performance criteria and the rating system that will be used to rate the Supplier's performance in respect of each of the criteria must be developed and set out below. Different categories and performance criteria will likely need to be developed for different types of Contracts.]				
The Rating System				
[Describe the system that will be used to rate the Supplier's performance in respect of each of the criteria and result in an overall rating of "Below Standard," "Standard," and "Above Standard" performance.]				
Category A:			Rating	
1.				
2.				
3.				
4.				
Category A Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard				
Category B:			Rating	

1.	
2.	
3.	
4.	
Category B Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard	
Category C:	Rating
1.	
2.	
3.	
4.	
Category C Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard	
Overall Performance Rating: <input type="checkbox"/> Below Standard <input type="checkbox"/> Standard <input type="checkbox"/> Above Standard	
SECTION 3 COMMENTS AND EXPLANATIONS	
General Comments Describe the Supplier's overall performance under the Contract:	
Below Standard Ratings Comments must be provided to explain and substantiate any "Below Standard" rating on any of the criteria:	

Above Standard Ratings

Comments must be provided to explain and substantiate any "Above Standard" rating on any of the criteria:

This section to be completed if the Supplier received a "Below Standard" rating on any of the criteria in Section 2.

SECTION 4 MEETING WITH SUPPLIER

I met with the Supplier on _____ to discuss the performance issues that resulted in the "Below Standard" rating, and I have considered the Supplier's comments in finalizing this Final Performance Evaluation Report.

SECTION 5 CONTRACT ADMINISTRATOR'S CONFIRMATION AND RECOMMENDATION

I have evaluated the Supplier's performance in accordance with the Supplier Performance Evaluation Protocol and have assigned a fair and objective rating to each of the criteria in Section 2 of this Final Performance Evaluation Report.

Based on my evaluation of the Supplier's performance, I make the following recommendation:

- ☐ I recommend that the Supplier be permitted to continue participating in the City's Procurement processes.
- ☐ I recommend that the Supplier be suspended from participating in the City's Procurement processes for a period of _____ years in accordance with the Supplier Suspension Protocol.

Contract Administrator Date

If the recommendation is that the Supplier be permitted to continue participating in the City's Procurement processes, then the Final Performance Evaluation Report is complete and a copy of it must be provided to the Supplier.

SECTION 6 NOTIFICATION OF SUPPLIER

The Supplier was provided with a copy of this Final Performance Evaluation Report on _____.

If the recommendation is that the Supplier be suspended from participating in the City's Procurement processes, the following sections must be completed.

SECTION 7 DEPARTMENT MANAGER REVIEW

I reviewed this Final Performance Evaluation Report and discussed the ratings and the recommendation with the Contract Administrator. I obtained the Contract Administrator's confirmation that this Final Performance Evaluation Report accurately reflects the Supplier's performance.

Department Manager

Date

SECTION 8 NOTIFICATION OF PROCUREMENT SERVICES

The Procurement Supervisor was notified of the recommendation to suspend the Supplier and was provided with a copy of this Final Performance Evaluation Report on _____.

SECTION 9 NOTIFICATION OF SUPPLIER

The Supplier was notified of the recommendation, was provided with a copy of this Performance Evaluation Report, and was advised that any statement of dispute in respect of the recommendation must be made in writing to the Procurement Supervisor within ten business days of the notification. Notification was given on _____.

Procurement Supervisor

Date

APPENDIX C – INCIDENT REPORT

INCIDENT REPORT				
CONTRACT AND SUPPLIER INFORMATION				
Contract #	RFT/RFQ/RFP # (if applicable)	Start Date	Length of Term	Contract Amount
Brief Description of Work				
Contract Administrator's Name			Contract Administrator's Department	
Supplier's Legal Name			Primary Supplier Contact	
Address		Phone	Email	
INCIDENT DETAILS				
Date of Incident				
Date of Discovery of Incident (if different than above)				
Location of Incident				
Names and Titles of Individuals Involved				

Description of Incident:

CONTRACT ADMINISTRATOR'S CONFIRMATION

☐ I have accurately described the incident, to the best of my knowledge.

Contract Administrator

Date

SUPPLIER'S RECEIPT AND ACKNOWLEDGEMENT

☐ I have received a copy of this Incident Report.

☐ I acknowledge the occurrence of the incident described in this report.

Supplier

Date

ANNEX 6.5 - SUPPLIER SUSPENSION PROTOCOL

1. Purpose and Interpretation

The purpose of this protocol is to set out the process for suspending Suppliers from participation in the City's Procurement processes. Defined terms used in this protocol have the meaning assigned in the Glossary of Terms in the Procurement Policy.

2. Application

In order to ensure that the City is receiving quality Deliverables and value for public money and is dealing with Suppliers that conduct business in a professional and ethical manner, the City may suspend Suppliers from participating in its Procurement processes for prescribed time periods.

A decision to suspend a Supplier must be made in accordance with this protocol, must be supported by evidence, and must be based on the reasons and factors set out below.

Suppliers are responsible for any employees, representatives, agents, or subcontractors that are acting on their behalf and all references to the actions or conduct of the Supplier under this protocol include the actions of any individual or entity acting on behalf of the Supplier.

3. Reasons for Suspension

3.1 Crimes or Offences

If a Supplier is convicted of serious crimes or other serious offences, including bid-rigging, price-fixing or collusion, fraud, or other statutory offences, the City will suspend that Supplier from participating in future Procurement processes.

3.2 False Declarations

If a Supplier includes false or misleading information in its Bids, the City may suspend that Supplier from participating in future Procurement processes.

If a Supplier fails to disclose a conflict of interest in connection with a Procurement process or during the performance of a Contract with the City, and the City subsequently discovers that such a conflict of interest exists, the City may suspend that Supplier from participating in future Procurement processes.

The following non-exclusive factors should weigh in favour of suspension:

- (a) The Supplier knowingly made misrepresentations or failed to disclose a conflict of interest.
- (b) The misrepresentation or undisclosed conflict of interest resulted in the Supplier having an unfair advantage or otherwise compromised the integrity of the City's Procurement process

3.3 Poor Performance

If a Supplier performs inadequately under a Contract with the City, the City may consider suspending that Supplier in any of the following circumstances:

- (a) The deficiencies in performance were significant or persistent.
- (b) The Contract was terminated for performance issues prior to expiry.
- (c) There were unrectified performance issues on a Contract that resulted in extra costs to the City.
- (d) The Deliverables provided were defective or deficient, and either were not replaced or repaired, or required multiple repairs.
- (e) The City brought a litigation proceeding against the Supplier in connection with performance or non-performance of the Supplier's contractual obligations.
- (f) The suspension of the Supplier has been recommended in accordance with the Supplier Performance Evaluation Protocol.

3.4 Professional Misconduct or Lack of Commercial Integrity

City may suspend a Supplier for professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the Supplier. Such conduct includes, but is not limited to:

- (a) unethical Bidding practices, such as inappropriate offers of gifts to the City's officials, officers, employees, or agents and inappropriate in-process lobbying or prohibited communications during a Procurement process;
- (b) failing to perform Contracts in a professional and competent manner in accordance with the duty of honest performance and all applicable laws, including safety and labour codes; and
- (c) engaging in litigious conduct or bringing frivolous or vexatious claims in connection with the City's Procurement processes or Contracts, including but not limited to, unreasonable cost or expense claims or unsubstantiated allegations impugning the integrity of the purchasing institution or its staff in relation to a Procurement process.

4. Process for Suspension

4.1 Suspension Recommendation Report

Any decision to suspend a Supplier must be supported by a written Suspension Recommendation Report that contains all details connected with the analysis of factors set out above.

The Suspension Recommendation Report will be prepared by the Procurement Supervisor. A template Suspension Recommendation Report is set out in Appendix A of this protocol.

4.2 Length and Scope Suspension

The Suspension Recommendation Report must include the recommended length and scope of the suspension.

The length of the suspension period should be proportional to the reasons for the suspension and, in most cases, should not exceed a maximum of five years. In the most serious of cases involving convictions for criminal or quasi-criminal offences, a suspension period of up to ten years may be considered.

The scope of the suspension can be either a blanket suspension for all Procurement processes or a suspension limited to Procurement processes for specific Deliverables.

The scope of the suspension can apply to both corporate entities and individuals.

4.3 Supplier Notification and Opportunity to Respond

The Procurement Supervisor will notify the Supplier of the decision to recommend suspension and will provide the Supplier with a copy of the Suspension Recommendation Report setting out the reasons for the suspension. The notice will advise the Supplier of its opportunity to respond to the recommendation for suspension by sending written submissions to the Procurement Supervisor within ten business days of the date of the notice.

4.4 Decision of Procurement Oversight Committee (“POC”)

All decisions to suspend a Supplier must be approved by the City’s legal counsel.

In making its decision, Legal Counsel will consider the Suspension Recommendation Report and any response submitted by the Supplier.

4.5 Notice of Decision

The Supplier must be notified, in writing, of the final suspension decision made by the POC.

If the recommendation for suspension is approved, the notification letter must contain:

- (a) the length of the suspension period and the scope of the suspension;
- (b) full details as to the reasons for the suspension, including copies of any documents or correspondence to support such a suspension; and
- (c) notice of the Supplier's right to apply for reinstatement within the prescribed time period and the process for requesting such a reinstatement.

5. Application for Reinstatement

A suspended Supplier may apply for reinstatement upon the completion of half of the original suspension period. For example, if the original suspension period was two years, the Supplier may apply for reinstatement after one year.

In order to apply for reinstatement, the Supplier must submit a written case for reinstatement, including supporting documentation if necessary, that provides reasons why the original reason for the suspension would no longer prove a risk for the City.

- (a) Applications for reinstatement are to be reviewed by the POC. If the POC determines that allowing the Supplier the opportunity to participate in the City's Procurement processes would no longer expose the City to risk, then the application for reinstatement may be approved.
- (b) The Supplier must be notified, in writing, of the final reinstatement decision made by the POC.

6. Suspended Suppliers List

Procurement Services must maintain an up-to-date and current list of all suspended Suppliers. Any Supplier that is owned or controlled by the same individual(s) that owned or controlled a suspended Supplier at the time it was suspended is also considered suspended.

The list should contain, at a minimum:

- (a) the full name of the Supplier or individual, where an individual is suspended;
- (b) the names of the directors and officers of the Supplier, if applicable;
- (c) the reasons for the suspension;

- (d) the file number where the Suspension Recommendation Report is filed;
- (e) the scope of the suspension (in other words, blanket suspension or specific Deliverables); and
- (f) the length of the suspension period and the date of the expiry of the suspension period.

For any competitive Procurement process, Procurement Services must check the suspended Suppliers list to ensure that Bids are not accepted from suspended Suppliers.

APPENDIX A – TEMPLATE SUSPENSION RECOMMENDATION REPORT

Supplier Suspension Recommendation Report		
Date of Report		
Procurement Supervisor	Name	
	Signature	
Contract Administrator (if applicable)	Name	
	Department	
	Signature	

Name of Supplier	
-------------------------	--

Reason for Suspension <i>Review Section 3 of the protocol for more detail</i>	
<input type="checkbox"/>	Crimes or Offences <p>The Supplier has been convicted of serious crimes or other serious offences, including bid-rigging, price-fixing or collusion, fraud, or other statutory offences.</p>
<input type="checkbox"/>	False Declarations <p>The Supplier included false or misleading information in its Bid.</p>
<input type="checkbox"/>	Poor Performance <p>The Supplier has performed inadequately under a Contract with the City.</p>
<input type="checkbox"/>	Professional Misconduct or Lack of Commercial Integrity <p>The Supplier has engaged in professional misconduct or acts or omissions that adversely reflect on the Supplier's commercial integrity.</p>

Recommended Length of Suspension	_____ years
Recommended Scope of Suspension	<input type="checkbox"/> All Procurement opportunities <input type="checkbox"/> Procurement opportunities related to:
<p>Detailed Reasons and Analysis of Relevant Factors</p> <p><i>Provide detailed information about the reason for the suspension and explain how any relevant factors set out in Section 3 of the protocol have been taken into account. Attach any other relevant documentation.</i></p> <p><i>If the reason for suspension is poor performance, attach any performance evaluation reports and incident reports.</i></p>	