

Procurement Policy



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Administration & Finance	May 17, 2022	054-2022	1	29
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Policy Statement

The City of Kenora (the "City") is committed to acquiring goods, services, and construction of the appropriate quality and at the best value for the City while treating all vendors equitably. The City is committed to creating and maintaining a high level of confidence in its procurement of goods, services, and construction by ensuring integrity, transparency, accountability, efficiency and consistency in its procurement process, and acting within its authority under the federal and provincial legislation, regulations and trade agreements governing municipal procurement.

It is important that in the expenditure of public funds the City maximizes the benefit to the City and, therefore, the public. All employees shall pursue procurement activities which promote the principles of economy, efficiency, effectiveness, and equity.

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1.0 PURPOSE

- 1.1 To provide direction and guiding principles for the procurement of goods, services, and construction by the City.
- 1.2 To encourage competition and ensure vendors are treated consistently and fairly throughout the procurement process.
- 1.3 To avoid conflicts between the interests of the City and those of the City's employees and vendors and to prevent corrupt practices.
- 1.4 To assign roles, responsibilities and accountabilities of individuals throughout the procurement process.
- 1.5 To ensure the City's procurement of goods, services, and construction is in compliance with all legislative and regulatory requirements, including but not limited to:
 - (a) the *Municipal Act*;
 - (b) the *Municipal Conflict of Interest Act*;
 - (c) the *Municipal Freedom of Information and Protection of Privacy Act*;
 - (d) the *Accessibility for Ontarians with Disabilities Act*;
 - (e) the *Discriminatory Business Practices Act*;
 - (f) the *Canadian Free Trade Agreement (CFTA)*;
 - (g) the *Canada-European Union Comprehensive Economic and Trade Agreement (CETA)*;
 - (h) the *Trade and Cooperation Agreement between Ontario and Quebec*
 - (i) any successor federal or provincial legislation, regulations, or agreements governing municipal procurement; and
 - (j) all City bylaws, policies and procedures governing City expenditures and standards of conduct of City employees.

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2.0 Definitions

- 2.1 **"Alternate goods or services"** means a choice between two goods and/or services. The same evaluation criteria must be used to assess each good or service.
- 2.2 **"Bid"** means for the purposes of this document only, a tender, proposal, quotation, an offer or submission received from a vendor in respect of an invitation to tender, request for proposal, request for quotation, or other form of solicitation.
- 2.3 **"Buying group"** means a group of two or more members that combines the purchasing requirements and activities of the members of the group into one joint procurement process. Buying groups include cooperative arrangements in which individual members administer the procurement function for specific contracts for the group, and more formal corporate arrangements in which the buying group administers procurement for group members. Buying groups may involve a variety of entities, including public sector, private sector and not-for-profit organizations;
- 2.4 **"Chief Administrative Officer" or "CAO"** means the Chief Administrative Officer of the City appointed by City Council pursuant to section 229 of the *Municipal Act*.
- 2.5 **"City"** means the City of Kenora.
- 2.6 **"City Council"** means the duly elected council of the City.
- 2.7 **"Conflict of interest"** means a situation where the independence or impartiality of an employee's, or a member of City Council's, decisions or actions are impaired or may reasonably be expected to be impaired because of outside employment, political, business, family or other personal interests.
- 2.8 **"Construction"** means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting Services related to the construction contract unless they are included in the procurement.

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- 2.9 **"Contract"** means a commitment by the City for the procurement of specified goods or services from a vendor, which may be evidenced by an agreement executed by the vendor and the City or a purchase order issued by the City to the vendor.
- 2.10 **"Director"** means any individual appointed to the position of Director or general manager of one of the operating departments or divisions within City administration from time to time as well as the Fire Chief.
- 2.11 **"Direct Purchase"** means the acquisition of Goods or Services without competition;
- 2.12 **"Director of Finance"** means the individual appointed to the role of treasurer for the City in accordance with section 286 of the *Municipal Act*.
- 2.13 **"Emergency"** means an unforeseeable situation of real urgency and the goods or services cannot be obtained in time by means of an open procurement process.
- 2.14 **"Employee"** means an employee of the City.
- 2.15 **"Equivalent goods or services"** means having the same quality, the same performance or providing the same benefit. The same evaluation criteria must be used to assess each good or service.
- 2.16 **"Evaluation criteria"** means criteria set out in the procurement documents which are to be used to evaluate a bid.
- 2.17 **"Formal competition"** means the acquisition of goods or services governed by competitive bidding law with formal public advertising utilizing an invitation to tender, a request for proposal, an expression of interest, etc.
- 2.18 **"Goods"** means moveable property (including the cost of installing, operating, maintaining or manufacturing such moveable property) and includes supplies, materials, raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form.
- 2.19 **"Informal competition"** means the acquisition of goods or services which requires a minimum of three quotes from vendors, without formal public advertising.

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- 2.20 **"Invitation to Tender"** means a public invitation to submit a bid in response to a call for tenders.
- 2.21 **"Manager"** means any individual appointed to the position of Manager of one of the operating departments or divisions within City administration from time to time as well as the City Planner, Economic Development Officer, Tourism Development Officer, Deputy Fire Chief, and any other managerial position deemed eligible by the Chief Administrative Officer from time to time;
- 2.22 **"Prequalification"** means the process of short-listing potential vendors.
- 2.23 **"Procurement"** means the acquisition by any means, including by purchase, rental, lease or conditional sale, of goods or services, but does not include:
- (a) any form of government assistance such as grants, loans, equity infusion, guarantee or fiscal incentives; or
 - (b) government provisions of goods and/or services to persons or other government organization.
- 2.24 **"Procurement activity"** includes any activity, process, or procedure initiated or undertaken as part of procurement, including but not limited to drafting specifications; completing any procurement forms; receiving and evaluating bids; issuing the purchase order or contract (as applicable); and forwarding documents for filing as municipal records.
- 2.25 **"Procurement authority"** means the authorization enabling an employee to engage in the procurement of Goods, Services, and Construction on the City's behalf;
- 2.26 **"Procurement value"** means the estimated total financial commitment resulting from a Procurement (refundable HST excluded) taking into account all forms of remuneration including premiums, fees, commissions and interest and the total values of options if the procurement provides for the possibility of options.
- 2.27 **"Purchase order"** means the City's written document issued by an authorized employee, which is the City's commitment to the vendor for the purchase of goods or services at an agreed upon price, terms, conditions and delivery date (including change orders). It is also the Vendor's authority to ship and charge for goods or services specified in the purchase order.

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- 2.28 **"Purchasing card"** or **"P-card"** means a credit card provided by the City that can be used by authorized employees to acquire low dollar value items as outlined in the applicable policies and procedures for the purchasing card.
- 2.29 **"Quotation"** means a vendor's submission in response to a request for quotation.
- 2.30 **"Request for Information"** means a request, issued by the City, for information regarding vendors, goods or services for prequalification assessment.
- 2.31 **"Request for Expression of Interest (RFEOI)"** means a request by the City to determine the interest of potential vendors to provide goods or services.
- 2.32 **"Request for Proposal (RFP)"** means a request, issued by the City, for vendors to submit proposals for assessment.
- 2.33 **"Request for Qualifications (RFI)"** means a request, issued by the City, for vendors to submit their qualifications, experience and background for prequalification purposes, in order to screen and short list potential vendors.
- 2.34 **"Request for Quotation (RFQ)"** means a request, issued by the City, for vendors to submit quotations for assessment.
- 2.35 **"Services"** means all services to be supplied, including construction and consulting.
- 2.36 **"Single Sourcing"** means awarding a procurement opportunity to a vendor without competition for reasons specific to the situation (i.e. an emergency), even though competitive bids may be available.
- 2.37 **"Sole Sourcing"** means awarding a procurement opportunity to a vendor without competition because that vendor is predetermined to be the only source capable of providing the goods or services.
- 2.38 **"Tender"** means an offer in writing to provide specified goods or services at a certain price, in response to an Invitation to Tender.
- 2.39 **"Vendor"** means a person carrying on the business of providing goods or services and includes an individual, firm, partnership or proprietorship, supplier, contractor, architect, consultant, bidder or proponent.

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3.0 Guiding Principles

- 3.1 These guiding principles apply to all procurement activities and all Employees involved with procurement activities.
- 3.2 Procurement is a complex process involving a number of persons therefore it is difficult to outline a prescriptive guideline for use for all circumstances. The guiding principles in this Policy should be used to guide Employees involved in procurement activities where the Policy may be silent, ambiguous or unclear.
- 3.3 This Policy shall not apply to the acquisition or disposal of any real property or fixtures or to any lease, right or permission relating to the use or occupation of real property.
- 3.4 This Policy shall guide all procurements undertaken by the City whether individually or in partnership with another entity.

Open and Fair Competition

- 3.5 The objective of this Policy is to ensure that all procurement activities are conducted in a manner that is fair, open, transparent and competitive to uniformly balance the interests of the taxpayers with the fair and equitable treatment of Vendors.
- 3.6 In accordance with the *Discriminatory Business Practices Act* and the City's trade agreement obligations, the City does not have a local preference policy.
- 3.7 All procurement activities shall be conducted in a manner that promotes and maintains the integrity of the process and protects the City, City Council, employees and vendors involved in the process, by providing clear direction and accountability.
- 3.8 All procurement activities by the City shall be fair and impartial with no impropriety or appearance of impropriety, ensuring that all qualified vendors have access to the City's business, that no source is arbitrarily or capriciously excluded, and that there is competition for the City's business ensuring that the City receives best value in all of its procurement activities.
- 3.9 All procurement activities shall be open, transparent and accessible and the City will fairly and equitably address Vendor complaints, provide unsuccessful vendors with feedback upon request, and maintain records on vendors' performance under contracts.

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Ethically Bound

- 3.10 The City is committed to acting ethically in all its procurement activities.
- 3.11 It is the responsibility of employees involved in procurement activities to establish a relationship of mutual confidence between the City and its vendors, within the confines of applicable policy and law. Employees shall:
- (a) ensure that specifications are clear;
 - (b) maintain consistent buying practices; and
 - (c) remain free of any obligation to any Vendor or potential Vendor.
- 3.12 Employees are to exercise caution when dealing with vendors or potential vendors where there is the possibility or perception of a conflict of interest, either through a direct or indirect relationship of any kind and must declare any actual or potential conflicts of interest that may arise at any time in the procurement process to their supervisor.
- 3.13 Employees must not use their public role to influence or seek to influence a City procurement decision which could further a personal and/or business interest of the employee or the employee's family.
- 3.14 Procurement documents will require vendors to declare that there are no conflicts of interest or provide details of any actual or potential perception of conflicts of interest with employees or members of City Council. Vendors will not necessarily be disqualified due to the existence of a conflict of interest provided that it is identified, recorded and acknowledged at the outset and proper precautions are exercised to limit any such conflict of interest.

Vendors Acting in Good Faith

- 3.15 The City may refuse to do business with vendors who do not act in good faith towards the City, whether by failing to live up to the terms and conditions of their agreement or contracts, or by entering into litigation with the City without valid justification.

Privacy and Confidentiality

- 3.16 Pursuant to the City's obligations and duties under the *Municipal Freedom of Information and Protection of Privacy Act* the City commits to protect confidential information from unauthorized access or disclosure, especially information of a confidential nature that is clearly marked as such.

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3.17 Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, information regarding budget and cost estimates and any other information which may create an unfair advantage shall remain confidential and shall not be released to the public or a single potential vendor. Further, the City is committed to ensuring that:

- (a) subject to the requirement for a public opening as set out in this Policy, any and all information provided by a potential vendor during either the informal or formal competition process shall remain confidential pending bid analysis and award;
- (b) pricing and costs of competing vendors and the names of vendors shall not be released prior to award, or prior to public opening;
- (c) information made available to potential vendors shall be limited to the list of potential vendors and total contract price; and
- (d) information made available to a potential vendor must be made available to all potential vendors.

4.0 ROLES AND RESPONSIBILITIES

General

4.1 City departments and employees exercising procurement authority are responsible for ensuring that all procurement activities are carried out in accordance with this Policy and all other applicable policies, procedures, guidelines and legal requirements. Specifically, this includes, but is not limited to:

- (a) ensuring efficient, effective, economic and prudent use of public funds in procurement activities;
- (b) identifying specific needs for goods, services, and construction;
- (c) planning appropriately for the procurement of budgeted goods, services, and construction;
- (d) defining requirements and drafting clear specifications for procurement opportunities;
- (e) maximizing competition in procurement activities;

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(f) completing the procurement cycle (i.e. attending the public tender opening, completing the evaluation, awarding the contract, issuing the purchase order or contract, justifying the award, managing the contract); and

(g) ensuring all procurement activities are appropriately and completely documented for records retention purposes.

4.2 Failure to comply with the requirements of this Policy may lead to disciplinary action up to and including termination of employment.

City Council

4.3 City Council is responsible for adopting the budget, including approving projects and their scope, through the annual operating and capital budget process. Formal approval of the budget constitutes approval for City administration to proceed with the acquisition of goods, services, and construction including the subsequent award of contracts in accordance with this Policy and subject to the procurement value being within the budget previously approved by Council.

4.4 Procurement of any goods or services not otherwise approved in the budget is strictly prohibited, except in case of emergency as outlined in this Policy, unless the expenditure has been authorized by City Council.

4.5 City Council is responsible for approving the award of contracts where:

(a) the total value of the contract exceeds the budget approved for the particular goods or services;

(b) the acquisition is prescribed by statute to be made by City Council;

(c) the award is for a Single Source contract and the total cost of the contract exceeds \$250,000.00;

(d) the term of the commitment under contract exceeds five (5) years; or

(e) recommended by the Chief Administrative Officer.

4.6 In order to maintain the integrity of the City's procurement Activities, members of City Council shall have no involvement in specific procurements, including not receiving any related information or documents from the time

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those procurements have been advertised or solicited until the contract has been awarded, except in the specific circumstances described in section 4.5 above.

- 4.7 If a member of City Council receives an inquiry from a vendor related to any specific procurement, they shall advise the vendor to communicate with the contact person listed in the procurement document, if any, or with the applicable Director.

Chief Administrative Officer

- 4.8 The Chief Administrative Officer is accountable to City Council and is responsible for exercising general control and management of the affairs of the City for the purpose of ensuring the efficient and effective operation of the City, in accordance with section 229 of the *Municipal Act*.
- 4.9 Where any authority has been granted to any officer or employee of the City pursuant to this Policy, such authority may be exercised by the Chief Administrative Officer.
- 4.10 The Chief Administrative Officer is authorized to:
- (a) award contracts in accordance with this Policy and within the limits of the delegated authority assigned to the CAO in Section 5;
 - (b) instruct staff not to award a particular contract and submit a recommendation to City Council for approval of the contract award; and
 - (c) adopt additional restrictions concerning a particular procurement where such action is considered necessary or desirable and in the best interest of the City.
- 4.11 The Chief Administrative Officer shall ensure that City Council receives:
- (a) a report, for information, setting out the details of the award of any Single Source or Sole Source contract at the next regular meeting of the Council;
 - (b) a quarterly report, for information, that outlines the awarding of any contracts under this Policy in the reporting period in excess of \$40,001.00, including any purchase of additional goods or services pursuant to Section 17 of this Policy.

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Director of Finance

- 4.12 The Director of Finance is accountable to the Chief Administrative Officer and is authorized to award contracts in accordance with this Policy and within the limits of the delegated authority assigned to the Director of Finance in Section 5.

Directors and General Managers

- 4.13 Directors are accountable to the Chief Administrative Officer, and General Managers are accountable to Directors. They are authorized to award contracts in accordance with this Policy and within the limits of the delegated procurement authority assigned to Directors and General Managers in Section 5 for the procurement of goods, services, and construction within the Director's and General Manager's respective department.

Managers

- 4.14 Managers are accountable to their respective Directors and shall make recommendations for the awarding of contracts to their Director in accordance with this Policy.

Employees with Purchasing Authority

- 4.15 Any employee who has been authorized to procure and/or to use a purchasing card may purchase low-value goods and services in accordance with this Policy and within the limits of the delegated procurement authority as assigned by the Director of Finance.

5.0 Procurement Authority

- 5.1 Unless otherwise approved by City Council, all procurement of goods, services, and construction services must be approved in the annual budget. Formal approval of the budget constitutes approval for City administration to proceed with the procurement activity.
- 5.2 All applicable taxes and duties shall be excluded in determining the procurement limit of authorized delegates in the table below.
- 5.3 City Council hereby delegates procurement authority to employees within City administration as follows:

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Description	Direct Purchase	Competitive Procurement	Single Source Contract	Sole Source Contract
Employees with Procurement Authority	As per the delegated procurement authority approved by Director of Finance	N/A	N/A	N/A
Managers	\$40,000	\$121,200	\$25,000	\$25,000
Directors and General Managers	N/A	\$250,000 for Goods and Services \$302,900 for Construction	\$100,000	\$100,000
Director of Finance	N/A	Max \$500,000	\$200,000	\$200,000
Chief Administrative Officer	N/A	\$500,001 and over	Max \$250,000 (subject to reporting to City Council per s. 4.11(a))	Max \$250,000 (subject to reporting to City Council per s. 4.11(a))

- 5.4 An employee who has been delegated procurement authority may sign any procurement documents, invoices, or purchase orders within the limits of their delegated procurement authority as approved by the Director of Finance, necessary to complete the procurement and must ensure that the expenditure is within the approved budget or a spending resolution approved by Council.

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- 5.5 Regardless of employees' delegated Procurement Authority, all formal contracts valued at \$40,001.00 or more shall be executed by the Mayor and City Clerk of the City for the purposes of binding the corporation.
- 5.6 Any contracts \$40,001.00 or less shall be executed by the Director of the Department and a copy must be forwarded to the City Clerk for record purposes.
- 5.7 The Director of Finance will maintain an effective system of written procedures and controls, including monitoring and reporting, to ensure that all procurement authority is being properly executed.
- 5.8 All purchasing transactions must be approved by employees charged with the delegated procurement authority for the City.

6.0 Procurement Processes

- 6.1 Procurement activities, regardless of the nature or value of the goods or services being acquired, create legally binding relationships between the City and vendors. Employees must ensure appropriate documentation is created to reflect the nature and substance of the relationship being established.
- 6.2 Procurement methods reflect the relative value of the goods and/or services being acquired. Procurements are to be conducted in accordance with the following values and processes and shall be indexed to the thresholds as provided by Article 504.3 of the Canadian Free Trade Agreement as adjusted from time to time:

Goods and Services

Procurement Value	Procurement Process
\$0 to \$40,000	Direct Purchase
\$40,001 up to but not including \$121,200	Informal Competition
\$121,201 or greater	Formal Competition

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Construction

Procurement Value	Procurement Process
\$0 to \$40,000	Direct Purchase
\$40,001 up to but not including \$302,900	Informal Competition
\$302,900 or greater	Formal Competition

- 6.3 No Procurement may be divided in order to avoid the requirements of this Policy or the City's obligations pursuant to applicable trade agreements.
- 6.4 Where goods or services of a similar type are to be supplied on a repetitive basis from one or more vendors either over a period of time, in a calendar year or over the course of a season, those goods or services shall be procured in accordance with the procurement process applicable to goods or services having a procurement value equal to the total estimated cost of all such similar goods or services to be supplied in the term of contract, whole calendar year or during the course of the entire season as the case may be. The appropriate procedure above will be utilized according to the total dollar value.
- 6.5 The City may participate in joint procurement initiatives with other entities where such initiatives are determined to be in the best interests of the City.
- 6.6 The City may procure goods and services directly through a buying group to which the City has access to, in lieu of conducting an informal competition or formal competition under this Policy.

Direct Purchase

- 6.7 Direct Purchase is reserved for low value/incidental purchases and is intended to expedite the acquisition of goods and services and reduce administrative costs.
- 6.8 The Director of Finance shall have authority to establish petty cash funds in such an amount to meet the requirements of a department for the acquisition of goods or services having an individual total acquisition cost of \$500 or less. All petty cash fund disbursements shall be evidenced by vouchers and shall be available for auditing purposes through the finance department.

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- 6.9 Direct Purchases may be made using petty cash (up to \$500), a purchasing card (up to the employee's authorized spending limit) or properly authorized purchase order.
- 6.10 Employees using direct purchase must be able to demonstrate that fair market value was achieved in the procurement.
- 6.11 Cardholders are responsible for reconciling their purchasing card activity.
- 6.12 Employees issuing purchase orders are responsible for forwarding all completed purchasing and procurement documentation to accounts payable for processing.

Informal Competition

- 6.13 Informal competition is a competitive process intended for low to medium dollar value procurements in which invited vendors are given a reasonable and equal opportunity to provide the City with goods and/or services in response to identifiable needs.
- 6.14 Quotes may be received by documented telephone call, facsimile, email or written proposal in response to a request for quotation depending on the nature and complexity of the procurement opportunity.
- 6.15 All information provided to vendors is to be identical.
- 6.16 The initiating Director may elect to follow the formal competition process if deemed appropriate.
- 6.17 The initiating employee shall be responsible for conducting all necessary procurement activities.
- 6.18 If the Director requires assistance with procurement activities, the Director may consult with the Chief Administrative Officer who may, in turn, obtain legal or other professional advice as required.

Formal Competition

- 6.19 Formal competition is a competitive process in which the relative value of the procurement opportunity is such that all interested vendors must be given equal opportunity to provide the City with goods or services in response to an identified need.

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- 6.20 Opportunities shall be posted electronically by the initiating employee.
- 6.21 The selection of the appropriate method of procurement (i.e., request for quotation, request for proposal, invitation to tender) is to be determined on a case-by-case basis by the initiating employee, based on the nature of the procurement opportunity and level of risk exposure.
- 6.22 The initiating employee shall be responsible for conducting all necessary procurement activities.
- 6.23 If the initiating employee requires assistance with procurement activities, the employee may consult with the Director who may, in turn, consult the CAO, obtain legal or other professional advice as required.

Methods of Procurement: Formal Competition

- 6.24 When selecting the appropriate method for formal competition procurement in a given case, the initiating employee shall take into account the following characteristics of each method:

(a) Request for Quotation

- Appropriate for medium value procurements for known goods and/or services;
- Requirements and technical specifications are detailed and provided in the document;
- Unless otherwise specifically stated in the procurement documents, it is a legally binding document between the City and all potential vendors, in accordance with the terms and conditions attached to the procurement documents and which forms the awarded contract; and
- Lowest priced response that best meets the specifications will be accepted unless evaluation criteria are used in which case the highest ranked bid will be accepted.

(b) Invitation to Tender

- Commonly used for major construction projects and other high value procurements;
- Used when the City knows what it wants to do and how to do it;

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- Used primarily when price or cost is the sole award factor; however, it may also be used when criteria other than price are the deciding factor;
- Contains very detailed requirements and technical specifications;
- Terms and conditions are considered mandatory requirements that must be met;
- It is a legally binding document between the City and all potential vendors, in accordance with the terms and conditions attached to the procurement documents and which forms the awarded contract;
- It is intended to accept the lowest priced, compliant Bid without negotiations;
- It should be used when a tight market requires security from the potential vendors.

(c) Request for Proposal

- Appropriate where a need is identified, but how it will be achieved is unknown at the outset;
- Allows vendors to propose solutions or methods to arrive at an end product or solution;
- Provides vendors with an opportunity to bid on goods and/or services using their unique skills;
- Specifications are general in nature;
- Vendor selection is based on evaluation criteria other than only price;
- The City may negotiate specific terms and conditions of the contract with the selected vendor(s) following the closing of bids;
- Used when the City wants to take advantage of the flexibility that the request for proposals offers with negotiation options;
- Is not legally binding on either party until the contract is executed.

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Prequalification

- 6.25 Prequalification reduces legal risks, as qualification takes place without worrying about possible contract lawsuits from disqualified vendors. It cuts the workload by reducing the number of Vendors at an early stage. At the same time, it enforces the CFTA and CETA requirements for open and fair competition, having it available to all vendors.
- 6.26 Prequalification is recommended when:
- (a) the complexity of the procurement requires better knowledge about the potential vendors that may compete;
 - (b) a large number of responses are expected and the City's intention is to short-list and approach only short-listed vendors; and
 - (c) the City does not have sufficient information about the vendors' market.
- 6.27 Prequalification can take the form of an expression of interest, request for information or request for qualification. If the City intends to proceed with the procurement opportunity, prequalification must be followed by either the informal competition or formal competition process, as applicable.

7.0 Specifications

- 7.1 Preparation of the requirements, technical specifications or scope of work for the goods or services is the responsibility of the initiating employee.
- 7.2 Employees must fully consider the "purpose" of the goods or services when developing the requirements for the goods or services.
- 7.3 Technical specifications should be set out in terms of performance and function rather than design or descriptive characteristics and be based on standards, if applicable.
- 7.4 Employees should avoid using technical specifications that require or refer to a particular brand name, trademark, trade name, or manufacturer. Such references may only be used for the purpose of indicating quality, character and compatibility and must not denote preference. Specifications should include, but not be limited to: quality, performance, availability of parts or service and any other characteristics as necessary.

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7.5 Specifications shall contain:

- (a) clear, accurate and complete requirements of the goods or services;
- (b) minimum standards expected of potential vendors;
- (c) requirements that will permit fair and equitable evaluation to select the successful vendor;
- (d) legal requirements that will protect the City by ensuring suitability and acceptability of potential and actual offerings of potential vendors including financial security and insurance requirements;
- (e) all mandatory standards that are required of the goods or services; and
- (f) desirable technical standards that are preferred of the goods or services.

7.6 The acceptability of alternate or equivalent goods and/or services should be identified where possible. It must be very clear to all vendors that the specifications establish minimum requirements only. If substitutions or equivalencies are not acceptable, a statement to this effect must be included in the specifications.

8.0 Advertising and Notifying Potential Vendors

8.1 Every effort must be made to ensure the City's requirements are known to the broadest market possible and to all potential vendors in the acquisition of goods, services, and construction. The City is committed to the following practices:

- (a) All procurement opportunities over the applicable threshold for formal competition shall be posted on an online platform for public advertisement of procurement opportunities; and
- (b) If required by the initiating employee, other advertising options may include: the City website, regional newspapers, and professional associations.

9.0 Bid Opening: Formal Competition

9.1 All bids received in response to an invitation to tender shall be subject to public opening.

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- 9.2 The time, location and conditions of the public opening shall be made known in advance and shall be contained in the procurement documents provided to potential vendors.
- 9.3 Only the name of the vendor and the total cost or price in the bid is to be released during a public opening.
- 9.4 All vendors are to be instructed that there will be no award at the public opening and all bids will be subject to further review and analysis prior to award.
- 9.5 All other aspects of the bids are to remain confidential prior to award.
- 9.6 Two employees are required to attend all public openings for the purpose of reading aloud the bids received and recording the results.

10.0 Acceptance or Rejection of Irregular Bids: Formal Competition

- 10.1 The City, in exercising its discretion to waive a minor or non-substantial irregularity in a bid, shall follow the guidelines provided below:

	IRREGULARITY	RESPONSE
1	Late bids (submitted after (e.g. 2:00:00 pm local time on the tender closing day))	Automatic rejection, do not open the bid
2	Unsealed bids	Automatic rejection, do not open the bid
4	Incomplete bids - partial bids - all items not bid upon	Automatic rejection except where the Tender form clearly states that an award may be made for individual items or where the irregularity is trivial
5	Qualified bids (condition or restriction on the bid)	Automatic rejection except where the change is requested by the City, or where the change is trivial
6	Financial security not submitted or insufficient (bid bond, surety or other)	Automatic rejection

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7	Bid not properly executed (signature or corporate seal, if applicable)	Automatic rejection
8	Mathematical errors	May be accepted if corrected in the checking/review procedure. Unit prices shall be used to correct extensions.
9	Corporate seal or signature of authorized agents of bonding company missing	Automatic rejection
10	Bids received on documents other than those provided in the Tender	Automatic rejection unless the matter is trivial
11	<p>Erasures, overwriting, corrections, or strikeouts not initialed:</p> <p>a) Changes which are minor (i.e. address, clerical error)</p> <p>b) Unit prices have been changed but not initialed and the bid totals are consistent with the price as amended</p> <p>c) Unit prices have been changed but not initialed and the bid totals are not consistent with the price as amended</p>	<p>May be accepted, time limit given to initial</p> <p>May be accepted, time limit given to initial change</p> <p>Automatic rejection</p>
12	Minor clerical errors	May be accepted, time limit given to correct and initial
13	Other minor irregularities	The Chief Administrative Officer shall have the authority to waive irregularities deemed to be minor and immaterial, using a consistent approach to fair practices.

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11.0 Best Value Considerations

- 11.1 All procurement shall be at the best value to the City. The City encourages the consideration of overall cost in the procurement of goods and/or services, and will consider and evaluate the relevant price and non-price factors prior to commencing the competitive process.
- 11.2 All factors need to be fully considered in determining best value. These include, but are not limited to:
- (a) quality of the goods and services;
 - (b) supplier experience and performance history;
 - (c) life cycle costs, i.e. the total cost from the time of acquisition of the goods through disposal (including, but not limited to, price, acquisition costs, operating costs, salvage value);
 - (d) availability;
 - (e) serviceability;
 - (f) warranties;
 - (g) delivery (manner and timing of deliver, and delivery/freight cost); and
 - (h) method of purchase/payment, with the intent that the most appropriate method be used for the value of the procurement to reduce internal processing across all City departments.
- 11.3 Payment terms on large dollar purchases or contracts may be aggressively negotiated for additional discounts or payment installments/terms.
- 11.4 Delivery of goods directly to the job site or workplace should be encouraged to reduce internal handling, warehouse and inventory.
- 11.5 Applicable taxes shall not be included in cost comparisons.
- 11.6 Purchases outside of Canada are subject to duty, customs/brokerage charges, freight and exchange on the dollar, all of which are required to be included in cost comparisons.

12.0 Award Considerations

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- 12.1 For procurements that do not have evaluation criteria established, the lowest bid meeting specifications will normally be accepted subject to the specific wording in the procurement documents. If a bid other than the low bid is recommended by the initiating employee, written justification must be submitted to the Director prior to award. Normally, the only reasons acceptable for selecting other than the lowest bid are where:
- (a) the lowest bid does not meet specifications materially;
 - (b) the vendor submitting the lowest bid cannot deliver within the time required; and
 - (c) acceptance of the lowest bid would result in a higher overall or end cost.
- 12.2 Where the recommended vendor is other than the lowest acceptable vendor, the award for the procurement must be approved by the Director. When price is not the sole awarding factor, evaluation and vendor selection shall be based on evaluation criteria which must be identified and included in the procurement documents provided to potential vendors. The evaluation criteria shall be assigned weighting for analysis of bids.
- 12.3 Evaluation criteria may include, but are not limited to:
- (a) Project Understanding: the degree of response to the published terms of reference will be of major importance in scoring this criterion. Vendors showing creativity and innovative approaches will score higher;
 - (b) Project Experience: previous experience on similar projects is an important selection criterion;
 - (c) Staff Allocation: experience of staff allocated and the assignment to specific project components will form the basis of this criterion;
 - (d) Estimated Time Required for Project: the importance of this criterion will vary with the particular project;
 - (e) Litigation: is the Vendor currently in litigation with the City;
 - (f) Amount of Work Completed for the City in the Past: the City strives to provide for more or less of an equitable distribution of available City business among qualified vendors; and

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(g) Past Performance of City Contracts: The quality and performance of previous contracts, goods and/or services.

13.0 Notification of Successful Vendor

- 13.1 The successful vendor shall be notified by the initiating employee as soon as possible after evaluation and selection. A contract or purchase order must be issued to confirm the award.
- 13.2 The initiating employee shall provide all procurement documentation to the City Clerk for records management purposes.

14.0 Unsuccessful Vendor Notification/Debriefing

- 14.1 Upon completion and award of all procurements where a request for quotation, request for proposal or invitation to tender has been used, the unsuccessful vendors in the competition are to be notified that a successful vendor has been selected. Copies of submitted bids and/or scoring evaluation matrices will not be provided.
- 14.2 An unsuccessful vendor may file a complaint with the City for any alleged wrongdoing in the informal or formal competition process or recommendation of award. All vendor complaints are to be referred to the Chief Administrative Officer for review and determination, in consultation with the City's legal advisors.

15.0 Emergencies and Other Exceptions to Competition (Single/Sole Sourcing)

- 15.1 The City requires that Procurement be done on a competitive basis and must strictly comply with the CFTA and the CETA. However, a competitive Procurement process is not required or even possible in all procurements. Procurement without competition may only occur if one or more of the following conditions apply and a process of negotiation is undertaken to obtain the best value in the circumstances for the City:
- (a) Low value/incidental procurements subject to Direct Purchase;
 - (b) Emergency: 'Emergency' purchases should not be the result of poor planning or incorrect allocation of resources. However, Single Sourcing an

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acquisition is appropriate where the lack of immediate action could jeopardize City operations or the safety or health of the City's people or property. The Chief Administrative Officer shall be notified immediately of any emergency procurements and a written report detailing the circumstances shall be provided to the Chief Administrative Officer, with a report to City Council if required.

- (c) Sole Sourcing an acquisition where goods or services are only available from one vendor by reason of:
- (i) a statutory or market based monopoly;
 - (ii) scarcity of supply in the market;
 - (iii) existence of exclusive rights (i.e. patent, copyright or license); or
 - (iv) need to avoid violating warranties or guarantees.

Sole Source acquisitions are not permitted because there is a preference for a particular brand or vendor. The Chief Administrative Officer shall be notified immediately of any intended Sole Source procurements, in writing, detailing the circumstances of the intended procurement, with a report to City Council if required.

(d) Exempt Procurements:

- (i) from philanthropic institutions, prison labour or persons with disabilities;
- (ii) from a public body or a non-profit organization;
- (iii) financial services respecting the management of government financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution;
- (iv) of goods purchased for representational or promotional purposes, and services or construction purchased for representational or promotional purposes outside the City;
- (v) of health services and social services;
- (vi) of services provided by lawyers and notaries;

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- (vii) of goods intended for resale to the public;
- (viii) when the procurement is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise confidentiality, cause economic disruption or be contrary to the public interest;
- (ix) in the absence of a receipt of any bids in response to the Formal Competition process; and
- (x) any other exceptions included in Chapter 504.11 of the Canada Free Trade Agreement.

16.0 Reallocation Authority of Approved Budgets

16.1 Where the purchase of goods, services, or construction has been authorized under this Policy, the Director of Finance may reallocate funds to complete the work set out in the original contract as long as there are sufficient funds within the approved budgets and same functional area to cover the incremental costs, irrespective of the total cost of the original contract. The Director of Finance will report these reallocation of funds on an annual basis.

17.0 Purchase of Additional Goods, Services, or Construction

- 17.1 Where goods or services have been acquired under this Policy, no similar, additional or related goods or services shall be purchased from the same vendor, whether by way of contract extension, renewal or separate purchase, unless:
- (a) the contract extension or renewal was expressly provided for in the initial contract awarded to the vendor;
 - (b) the procurement procedures set out in this Policy are complied with as if the additional purchase is a new contract;
 - (c) the total cost of the additional goods or services does not exceed twenty percent (20%) of the total cost of the original contract and there is sufficient budget flexibility available to cover the incremental costs; or
 - (d) the total cost of the additional goods or services is to be paid in full by a third party, and security to ensure payment is in place, to the satisfaction of the Director of Finance.

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- 17.2 Any amount authorized under this section may be expended in addition to any contingency allowance authorized under Section 16 Contingencies of this Policy, and may be authorized by the Director of Finance irrespective of the total cost of the original contract.
- 17.3 A report shall be submitted quarterly to Council, for information, advising of any expenditures made under this section of the Policy.